

Miroyan, Mike  
My 97 page Hawaii

CASE# 18-52601

18-52601

Recusal motion to be heard on 5-4-22 and  
made an exhibit to the motion for violation  
of the automatic stay to show & take judicial  
notice of the ongoing pattern of abuse  
and bias and prejudice towards Michael  
Miroyan for 7 years since 2015 and  
whereby Miroyan has not once been allowed  
in court to present my evidence of  
forgery and fraud against the KAIS  
and their legal counsel, et al.

  
Miroyan Date 4/11/22

**FILED**

APR 11 2022

U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 Michael Miroyan  
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6 In Propria Persona

Electronically Filed  
THIRD CIRCUIT  
3CC16100043K  
07-FEB-2022  
09:17 AM  
Dkt. 69 MOT

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**

10 GANG CHEN,

11 Plaintiff,

12 v.

13 HAWAIIAN RIVERBEND, LLC,

14 Defendant.

15 **CIV. NO. 3CC-16-1-00043K**

16 MOTION TO DISQUALIFY AND  
17 RECUSE JUDGE ROBERT D.S. KIM;  
18 MEMORANDUM OF POINTS AND  
19 AUTHORITIES IN SUPPORT;  
20 AFFIDAVIT OF BIAS OF MICHAEL  
21 MIROYAN; CERTIFICATE OF GOOD  
22 FAITH BY COUNSEL: [PROPOSED]  
23 ORDER: CERTIFICATE OF SERVICE  
24 Hearing Date: ~~2-24-2022~~ at 10:30 am  
25 *5-4-2022/m*

26 This Motion to disqualify and recuse Judge Robert D.S. Kim is brought  
27 pursuant to Rule 7 of the Hawaii Rules of Civil Procedure and pursuant to  
28 Hawaii Revised Statutes (HRS) § 601-7 as well as Rule 2.11 of the Hawaii  
Canons of Judicial Conduct (CJC). This Motion is supported by this  
Memorandum of Points and Authorities in Support of the Motion, the  
supporting Affidavit of Judicial Bias of Michael Miroyan with supporting  
Exhibits as well as a [Proposed] Order for the Court. Defendant Miroyan  
was unable to obtain a Certificate of Good Faith from existing counsel  
Margaret Wille who has calendared a hearing on her Motion to Withdraw as  
Counsel, a Motion that Defendants are vigorously opposing, set for hearing  
today at 1:30 pm. Miroyan requests that he be allowed to file the Certificate  
of Good faith by Margaret Wille as soon as he is able to do so.

Defendant Miroyan respectfully requests that this Motion be heard by  
another Judge of this Court other than Judge Robert D.S. Kim

//

1     **1.     HAWAII LAW GOVERNING DISQUALIFICATION/RECUSAL**

2             Hawaii Law governing the disqualification/recusal of Judges for bias is  
3     codified at Haw. Rev. Stat. § 601-7 and Rule 2.11 of the Hawaii Revised  
4     Code of Judicial Conduct (CJC). Under the law, once an Affidavit of Judicial  
5     Bias is filed in this case, Judge Robert D.S. Kim must recuse himself from  
6     all cases in the Third Circuit Court involving Hawaiian Riverbend, LLC  
7     and/or Michael Miroyan.

8     **2.     EXAMPLES OF JUDGE ROBERT D.S. KIM'S ACTUAL BIAS AND**  
9     **PREJUDICE AGAINST MIROYAN AND BIAS IN FAVOR OF**  
10    **PLAINTIFFS**

11            There are numerous examples of both Judge Kim's actual bias and  
12    prejudice against Miroyan as well as his bias and prejudice in favor of the  
13    plaintiffs.

14            There are 3 cases before Judge Kim. Those three of these cases are:

15            1. Tereick v. Hawaiian Riverbend, LLC Case #: 3CC-14-0429K

16            2. Kai v. Hawaiian Riverbend, LLC Case #: 3CC-15-0164K.

17            3. Chen v. Hawaiian Riverbend, LLC Case #: 3CC-16-0043K.

18            Both the Tereick and Kai cases were appealed to Hawaii's  
19    Intermediate Court of Appeals. The Kai appeal currently still pending. That  
20    appellate case is:

21            4. Kai v. Hawaiian Riverbend, LLC Case #: CAAP-19-0000742.

22            This Motion for Recusal is brought in the Chen civil case in light of the  
23    upcoming 1-31-2022 at 1 pm hearing date before this Court regarding  
24    Attorney Margaret Wille's Improper Motion<sup>1</sup> to Withdraw as counsel for both

---

25    <sup>1</sup>     No withdrawal is allowed without substitution pursuant to Laskowitz v. Shellenberger .  
26         The Court in Laskowitz stated:  
27         "In any event a withdrawal of attorneys is not the proper course. A substitution of  
28         attorneys approved by the Court is the method of changing representation. The  
       purported withdrawal of attorneys is disallowed."

Laskowitz v. Shellenberger (1952) 107 F.Supp. 397.

1 Michael Miroyan individually as well as Miroyan's wholly owned single  
2 manager single member HR LLC<sup>2</sup>.

3 This Motion is vehemently opposed by both HR LLC and Miroyan for  
4 very good reasons including the most important, the most crucial and the  
5 most critical reason being is at this time there is no substitution of counsel,  
6 so that Wille's withdrawal of HR LLC will leave the LLC naked,  
7 unrepresented, and without a voice in all future court proceedings. This is  
8 manifest injustice or will certainly result in manifest injustice. Miroyan  
9 believes that Judge Kim will illegally allow Wille to withdraw. This belief is  
10 based on Judge Kim's prior action in companion case Tereick v. Hawaiian  
11 Riverbend, LLC.

12 In that case on April 13, 2018 in a clandestine and secret hearing,  
13 between Judge Kim and Paul Sulla Jr., the attorney representing HR LLC, a  
14 hearing held without Miroyan's knowledge or consent

15 Judge Kim was working in collusion with Paul Sulla. Both of these  
16 experienced lawyers knew exactly what they were doing. They were killing  
17 the entity by design and premeditation, knowing full well that the entity would  
18 not be able to hire an attorney between 4-13-2018 and 6-19-2018 when the  
19 all important Court Confirmation hearing was already scheduled. Both Sulla  
20 and Judge Kim knew this to be true because Miroyan had been "blacklisted"  
21 by Federal Bankruptcy Judge in Hawaii Judge Robert Faris, from whom  
22 Judge Kim takes his marching orders.

23 In that hearing where Miroyan was never notified nor was served with  
24 pleadings, Judge Kim allowed Sulla to withdraw in violation of Rule 25.1 of  
25 the Hawaii Rules of Civil Procedure as well as Rule 1.16 of the Hawaii Rules

26 \_\_\_\_\_  
27  
28 <sup>2</sup> Michael Miroyan owns 100% of the membership interests in HR LLC



1 of Professional Conduct..

2 Judge Kim according to the rules, should never have signed the order  
3 allowing Sulla's withdrawal without first having Miroyan's signature, as is  
4 mandated by the rule whereby the manager has to sign the order before the  
5 judge stating that he is okay and approves of the substitution and the  
6 transition from one attorney to the next.

7 Yet Judge Kim could care less. Judge Kim was not concerned with  
8 these rules, he was concerned with one thing, making sure that Miroyan  
9 could not say a word. (See Exhibit 1). Did Judge Kim ask if there substitute  
10 counsel? Is Miroyan aware of this hearing? What Judge Kim did state on  
11 the record: "IF THE COURT GRANTS THIS MOTION, YOUR CLIENT IS  
12 UNABLE TO PARTICIPATE AS IT WOULD BE AN UNAUTHORIZED  
13 PRACTICE OF LAW"

14 Judge Kim's prior history whereby he obliterated the Due Process  
15 rights of HR, LLC in the sneaky, underhanded clandestine "hearing" on  
16 Sulla's Motion to Withdraw. This Motion was brought without the knowledge  
17 or consent of the LLC's managing member, who had no knowledge of this  
18 hearing, nor was he served with pleadings.

19 Now, to be in compliance with HRCP Rule 25.1, a good Judge, one  
20 who is familiar with the law, would be asking the following questions as  
21 delineated by the rule: "Mr. Sulla, the entity which you are currently  
22 representing, HR, LLC, is it's managing member aware of your withdrawal  
23 without any substitution attorney in place? You are aware Mr. Sulla, that in  
24 order to withdraw and to be in compliance with our Rule 25.1, that the  
25 substituting attorney has to sign the Order prior to the Judge signing the  
26 Order and, in addition to that, besides citing relevant case law allowing you  
27 to do what you are requesting, which I do not see in your pleadings, the  
28 managing member's signature of the LLC has to be on the Order also,

1 stating that he is in agreement and consents to this substitution of counsel,  
2 which appears to not exist in this case, does it Mr. Sulla? Because if it does  
3 not, I am not going to be the Judge that removes the attorney for the LLC  
4 because that will leave the entity unrepresented without any voice in all  
5 future Court hearings. That would not just be detrimental, Mr. Sulla, that  
6 would be disastrous and could easily result in manifest injustice."

7 In the preceding hypothetical colloquy is between a Judge following  
8 Rule 25.1 and an attorney who wishes to withdraw in a hurry without proper  
9 notice to the client, without substitution of counsel, without any case law and  
10 without the signatures of both the substitute counsel and the managing  
11 member of the entity he represents. In other words, Sulla's conduct and  
12 requests to withdraw was without any legal basis and followed none of the  
13 benchmark protocols in place based on Rule 25.1. His request should have  
14 been flat out denied. Sulla's conduct and his deceitful, sneaky and  
15 unannounced way that he conducted himself, particularly egregious was his  
16 non-notification to his client about his intention to withdraw immediately and  
17 the disastrous consequences that withdrawal would cause is malpractice.  
18 Sulla's unconscionable actions makes him guilty of malpractice. Judge Kim's  
19 sanctioning of Sulla's conduct is criminal. Observe how these two men,  
20 both of whom knew exactly what they were doing, and in collusion, the both  
21 of them, perfected the demise of the entity, or in other words, intentionally  
22 killed the entity themselves with their knives, all done in darkness all done in  
23 secrecy without telling the managing member anything about it, making sure  
24 that the entity had no legal counsel for the Court confirmation hearing.

25 This type of conduct shocks the conscience of any decent human  
26 being. The consequences when conduct like this is sanctioned, as it was in  
27 this case where Judge Kim who in collusion with Sulla created manifest  
28 injustice, the result of which 60-90 days later was an unconscionable loss

1 of \$1.5 million dollars in equity by the entity Sulla represented, HR, LLC, all  
2 because Judge Kim did not do a proper inquiry, did not comply with Rule  
3 25.1 at all and in a premeditated plan, in collusion with, Attorney Sulla,  
4 guaranteed the demise of the entity Sulla represented as we shall see,  
5 doing maximum damage with adverse consequences to his client.

6 Judge Kim did not ask any questions about the entity HR, LLC. Judge  
7 Kim also neglected to ask any questions regarding who is the substitute  
8 attorney and why isn't he here? Is the managing member Mr. Miroyan okay  
9 with this motion for withdrawal without substitution, because his LLC will be  
10 left without a voice. Judge Kim did not ask any of these pertinent and  
11 relevant questions while allowing counsel to withdraw in the Tereick civil  
12 case leaving HR LLC without a voice at upcoming court confirmation  
13 hearings resulted in disaster for the LLC wherein a \$1.7 million piece of  
14 property owned by the LLC is taken for a \$120,000 credit bid, and the  
15 missing \$1.5 million is treated as though it never existed, and is what all  
16 parties on the plaintiff's side along with their attorneys cherish and covet and  
17 strive mightily to steal.

18 Judge Kim. Is the sword of the plaintiffs creating and establishing by  
19 this, manifest injustice. Judge Kim's treachery is obvious and it knows no  
20 bounds. Judge Kim has proven he is completely reckless and will do  
21 anything and break any law to facilitate his master's requests, and achieve  
22 the final goal which is to steal the equity of the assets of Hawaiian  
23 Riverbend, LLC

24 Here are but a few of the examples of bias and prejudice exhibited by  
25 Judge Kim as well as examples of his willingness to not follow any case law  
26 precedent, and his willingness to break the law which establishes manifest  
27 injustice, the very thing he's supposed to be interested with eliminating. His  
28 ongoing pattern of conduct in holding court without proper notice to

1 defendants. Judge Kim's holding of Court without proper service of  
2 pleadings without knowledge or notification and by issuing bogus one sided  
3 rulings based on the total and his utter disregard of the law governing such  
4 motions as was granted by Judge Kim in both the Kai case and the Chen  
5 case. In the Chen case Judge Kim granted summary judgment while the  
6 Bankruptcy Court's automatic stay was in force, thereby rendering Judge  
7 Kim's grant of summary judgment in favor of Chen to be a Void Order.

8 Judge Kim's distinctly punitive and criminal way of dealing with any  
9 pro se litigant including his threats of intimidation constitutes oppression.  
10 Additionally Judge Kim allows attorneys to withdraw when they should not.  
11 He holds secret clandestine unannounced hearings without the parties  
12 being properly represented or even notified.

13 Judge Kim refuses to follow protocols in place when motions for  
14 recusal are filed against him. Judge Kim ignored federal or state civil rights  
15 lawsuits naming him as a defendant knowing full well that it is mandatory for  
16 federal judges to recuse themselves under these circumstances and that  
17 state actors like Judge Kim if named as a defendant in an action must  
18 recuse him because failure to do so would result in an onlooker reasonably  
19 questioning his impartiality.

20 What laws, or rules are left for Judge Kim to further violate? Well he  
21 would deny pro se litigants access to the courts. He will deny the right of free  
22 speech in his courtroom. He will threaten and oppress the litigants who dare  
23 to believe what Judge Kim does not want to hear. Judge Kim will violate the  
24 automatic stay in federal bankruptcy cases so long as the rights of the  
25 defendant are being trampled upon and he will not hesitate to hold Ex Parte  
26 communications illegally. And he likes attorneys who set hearings without  
27 opposing parties knowledge and in general this renegade judge is  
28 impervious, above any law and does whatever he wants and openly

1 challenges anyone to do anything about it. The results of Kim's bias and  
2 prejudice results in denial of free speech, results in the inability to access  
3 the courts to petition for redress of grievances, no equal protection under the  
4 law resulting in no due process resulting in manifest injustice. Now we will  
5 take actual examples.

6 1) Threats and Intimidation by Judge Kim

7 2) Secret Sulla withdrawal hearing with no notice given to Miroyan nor  
was Miroyan served with Sulla's pleadings re: Motion to Withdraw

8 3) No recusal by Judge Kim after Federal lawsuit was filed against him

9 4) Judge Kim's grant of Summary Judgment in favor of Kais despite 3-  
10 11-2016 filing of Affirmative Defenses, Counterclaims and Third-Party  
Claims

11 5) Summary Judgment granted in favor of Chen\*\*\*

12 \*\*\* More Egregious in the Chen case for two reasons

13 6) Secret and clandestine Court hearings without Miroyan being notified  
14 and without Miroyan being served pleadings

15 7) Summary Judgment granted in the Chen case on 2-4-2019... in the  
middle of an automatic BK stay that began on 11-26-18 case #52-601

16 8) Michael Miroyan receiving no pleadings in large numbers in Chen  
17 case

18 9) Judge Kim stripped HR LLC from its attorney Paul Sulla In April 2018  
19 right before June 19, 2018 court confirmation hearing ... Leaving the  
LLC without a voice

20 10) Karyn Doi never provided Michael Miroyan /Hawaiian Riverbend, LLC  
21 with copies of the pleadings .... pretend she didn't know where  
Miroyan was Doi holding court without Miroyan while his back is  
turned during a Bankruptcy Automatic stay

22 11) Margaret Wille attorney for HR was paid to void that judgment and  
23 paid to bring to the attention of the court the fact that they never  
24 should've done this while a BK automatic stay was in place. Attorney  
25 Wille's done nothing but she shouldn't be relieved she has to do her  
job and she shouldn't be relieved so that Kim can do his dirty work like  
he did in the last Tereick matter where \$1.5 million in equity was  
stolen from Miroyan.

26 **3. JUDGE KIM'S THREATS TO REPORT MIROYAN TO THE HAWAII**  
27 **ATTORNEY GENERAL'S OFFICE CONSTITUTE BIAS**  
28 **OPPRESSION AND INTIMIDATION AND CONSTITUTE ACTS OF**  
**HOSTILITY AND QUESTION JUDGE KIM'S IMPARTIALITY**



1 An objective reasonable onlooker considering Judge Kim's multiple  
2 threats to report Miroyan to the Hawaii Attorney General's Office for  
3 engaging in the unauthorized practice of law because Miroyan sent all  
4 parties an e-mail re: sale of a comparable property of 11 acres for \$1.5  
5 million dollars in cash, after Judge Kim illegally permitted HR, LLC's counsel  
6 Paul Sulla Jr. to withdraw as attorney of record, rather than requiring that a  
7 Motion for Substitution of Counsel be filed so as to be following the legal  
8 precedent from the U.S. District Court in Laskowitz v. Shellenberger (1952).

9 The threats by Judge Kim to have Miroyan arrested and charged with  
10 the unauthorized practice of law is but one instance of conduct that brings  
11 his conduct as a Judge and the Judiciary itself into disrepute in the eyes of  
12 the public and raises serious questions that are based on judicial threats,  
13 intimidation and the quashing of free speech, the free exercise of which is  
14 one of the bedrock principles of this American Republic, a right that is  
15 enshrined in the First Amendment of the Constitution of the United States, a  
16 basic civil right that Judge Kim is openly conspiring against with his threats  
17 to criminalize Miroyan's ability to speak in Court and defend his land. Judge  
18 Kim's actions in warring against the Constitution are facts that are  
19 corroborated by the 4-13-2018 Minute Order confirming Judge Kim's threat  
20 attached as Exhibit 1 to Miroyan's Affidavit of Bias is clear evidence of bias  
21 and denial of Miroyan's Due Process, Free Speech and right to petition the  
22 Government for a redress of grievances are but a few of the Constitutional  
23 rights of an American citizen that Judge Kim is openly and notoriously  
24 trampling upon and are actions that the decisional case law defines as acts  
25 of hostility against Miroyan. The law mandates Judge Kim recuse himself.

26 But Judge Kim will not recuse himself !. Judge Kim won't recuse  
27 himself when he's sued as a lead defendant in a civil lawsuit by Miroyan  
28



1 Judge Kim will not follow the Canons of Judicial Conduct.

2 **4. LAW GOVERNING JUDICIAL DISQUALIFICATION AND RECUSAL**

3 This Motion for Recusal of Judge Robert D.S. Kim is made pursuant  
4 to HRS Section 601-7(b) which states:

5 "Whenever a party to any suit, action, or proceeding, civil or  
6 criminal, makes and files an affidavit that the judge before whom  
7 the action or proceeding is to be tried or heard has a personal  
8 bias or prejudice either against the party or in favor of any  
9 opposite party to the suit, the judge shall be disqualified from  
10 proceeding therein. Every such affidavit shall state the facts and  
11 the reasons for the belief that bias or prejudice exists...

12 This Court applies a two-part analysis when addressing a  
13 disqualification or recusal case. State v. Ross (1999) 89 Haw. 371, 377.  
14 First, the Court asks whether HRS § 601-7 covers the disqualifying bias  
15 or conflict of interest. If HRS § 601-7 does not cover the particular  
16 allegation the Court may then turn to notions of due process in conducting  
17 the

18 "broader inquiry of whether 'circumstances ... fairly give rise to  
19 an appearance of impropriety and ... reasonably cast suspicion  
20 on the [the judge's] impartiality.'"

21 Id. (quoting State v. Brown (1989) 70 Haw. 459, 467 n. 3.

22 **5. RECUSAL IS MANDATORY IN ANY PROCEEDING IN WHICH THE  
23 JUDGE'S IMPARTIALITY MIGHT REASONABLY BE QUESTIONED**

24 Part two of the disqualification or recusal analysis looks to notions of  
25 due process applying the principles of the Canons of Judicial Conduct CJC.  
26 State v. Ross (1999) 89 Haw. 371 at 378.

27 The Court in Ross recognized that:

28 "aside from the technical absence of bias or conflict of interest,  
certain situations may give rise to such uncertainty concerning  
the ability of the judge to rule impartially that disqualification  
becomes necessary."

Id. at 379.

Rule 2.11 (a) of the Revised Code of Judicial Conduct states that

1 "subject to the rule of necessity, a judge shall disqualify or  
2 recuse himself or herself in any proceeding in which the judge's  
3 impartiality might reasonably be questioned, including but not  
4 limited to the following circumstances."

- 5 (1) The judge has a personal bias or prejudice for or against a  
6 party or a party's lawyer, or personal knowledge\* of facts  
7 that are in dispute in the proceeding.

8 Rev. Code of Jud. Conduct, Rule 2.11 (a).

9 **6. DEFINITION OF IMPARTIALITY**

10 Impartiality is defined as:

11 "an absence of bias or prejudice in favor of, or against, particular  
12 parties or classes of parties, as well as maintenance of an open  
13 mind in considering issues that come or may come before a  
14 judge."

15 CJC, Terminology.

16 CJC, Rule 1.2 further states that

17 "a judge shall act at all times in a manner that promotes public  
18 confidence in the independence, integrity, and impartiality of the  
19 judiciary and shall avoid impropriety and the appearance of  
20 impropriety."

21 CJC, Rule 1.2.

22 **7. DEFINITION OF "APPEARANCE OF IMPROPRIETY**

23 The CJC defines "appearance of impropriety" as:

24 "conduct that reasonable minds, with knowledge of all the  
25 relevant circumstances, would perceive as materially impairing  
26 the judges independence, integrity, impartiality, temperament, or  
27 fitness to fulfill the duties of judicial office."

28 The Court in Ross stated that:

"the test for disqualification due to the 'appearance of  
impropriety' is an objective one, based not on the beliefs of the  
petitioner or the judge, but on the assessment of a reasonable  
impartial onlooker apprised of all the facts."

Ross, at 380, 974 P.2d 11, 20.

"The test assumes the viewpoint of a reasonable onlooker,  
rather than the subjective belief of the judge."

Ross at 378, 974 P.2d 11, 17.

**8. DISQUALIFICATION OF JUDGE BASED UPON THE RECORD**

1 The Hawaii Court in Peters discussed Motions to Disqualify/Recuse  
2 based upon filing an Affidavit of Bias. The Peters Court then addressed  
3 situations where evidence of judicial bias is to be found on the record:

4 "Disqualification for bias or prejudice does not necessarily rest  
5 on the filing of an affidavit of bias or prejudice. It may appear  
6 from the record itself. Knapp v. Kinsey, supra; Whitaker v.  
7 McLean, 73 App.D.C. 259, 118 F.2d 596. Indeed, any motion to  
8 disqualify based on matters of record must find its support in the  
9 record. Revised Laws of Hawaii 1955, section 213-3(b) was  
10 never intended to permit a party to file an affidavit setting out as  
11 incontrovertible facts matters which appear from the record  
12 itself. Peterson v. McKinley, supra, 45 Haw. 44, 47, 361 P.2d 60,  
13 62. Hence, in the present case, whether grounds of  
14 disqualification have been established must be gleaned from the  
15 record. We hold that in a proper case a writ of prohibition will lie  
16 to compel a trial judge to recuse himself because of bias or  
17 prejudice which appears from the record, where as here the  
18 case is one in which the question of disqualification cannot  
19 otherwise be reviewed. Hence, we have deemed it necessary to  
20 review the record and to depict the pertinent portions of the  
21 proceedings."

22 Peters v. Jamieson (1964) 48 Haw. 247

## 23 **9. RELEVANT FACTS**

24 In July of 2005 Miroyan successfully acquired 13,767 acres for  
25 \$60,000,000 a deal that closed on 9-4-2005. The very same day, the same  
26 property appraised for \$164 million. Attached as Exhibit 2 to Michael  
27 Miroyan's Affidavit of Bias is a true and correct copy of a detailed list  
28 regarding the above referenced 13,767 acres.

29 In a letter dated 7-17-2005 from Hawaii Real Estate  
30 Broker Lee Pappernow to Miroyan's partner of Vitoil Corporation highlights  
31 Miroyan's brilliance in the acquisition of the 13,767 acres:

32 "Mike has an innate ability to read people and business  
33 situations and his strategy on this deal was brilliant. As a result  
34 it appears that we have won the day and what Mike has  
35 delivered to you as majority partners is nothing less than  
36 miraculous. In my 30 years as a real estate broker I have never  
37 seen anything even close to the profit opportunity Arch now  
38 enjoys..."

39 From 1-1-2006 to 4-20-2006, while Miroyan was in Hawaii, Miroyan

1 borrowed money from the Kai's (referenced in another Third Circuit Court  
2 case.

3 In November 2008, Miroyan sued his Ukrainian Armenian partners  
4 Arch, Vitoil, and related entities in Hawaii's 3rd Circuit Court, alleging that  
5 Arch and Vitoil "have orchestrated the transfer of portions of the [Waikoloa  
6 property] worth approximately \$35 million" and that they were "engaged in a  
7 pattern of selling and mortgaging (at very high interest rates and points) and  
8 cross-collateralizing the properties for less than reasonable equivalent  
9 consideration and with the intent to hinder, delay, or defraud" Miroyan.

10 In November of 2009 Miroyan settled with his former partners and  
11 Waikaloa Mauka. The agreement transferred to Miroyan's company  
12 Hawaiian Riverbend 31.3 acres at the mauka entry to Waikoloa Village, at  
13 the corner of Paniolo Drive and Waikoloa Road. This parcel is identified as  
14 Taxpayer Map Key (TMK) Number 6-8-002-021.

15 In spring of 2010, Waikoloa Mauka and Miroyan entered into a joint  
16 development agreement, calling for them to work together and split the  
17 costs of subdividing and rezoning a portion of the parcel and the building of  
18 the entrance road to the park with utilities stubbed on site and making  
19 certain other improvements. The subdivision would divide Miroyan's parcel  
20 into three lots: one of six acres fronting Paniolo Drive (Taxpayer Map Key  
21 (TMK) number 6-8-002-021), one of 14.6 acres (rezoned as commercial CV-  
22 20), and one of 10.7 acres, which would be designated as a park donation  
23 parcel on behalf of Waikaloa Mauka, LLC, Michael Miroyan's partners and  
24 donated to the county, to satisfy the Waikoloa Highlands per subdivision  
25 condition requiring park fees across the streets a per-lot contribution of more  
26 than \$6,000 for their 400 lots – totaling more than \$2.45 million – to support  
27 county park and recreational facilities.

28 In return for donating 10.7 acres of Miroyan's land, the development

1 agreement provided for Waikoloa Mauka to transfer to Hawaiian Riverbend  
2 the triangular 10.8-acre parcel on the corner across the street at Waikoloa  
3 Road and Pua Melia Street. The agreement, if fulfilled, would replace  
4 Miroyan's land with a lesser valued piece across the street but the cost of the  
5 entrance road would be split 50/50.

6 Before the development agreement was signed, Miroyan had  
7 transferred a 50 percent interest in Hawaiian Riverbend LLC to Tae Kai and  
8 Kenneth Kai, trustees of the Kai Family Trust governed by the terms of the  
9 LLC's Membership Purchase Agreement. They were to put up \$360,000 and  
10 receive \$180,000 in prepaid interest, a 50% return on principal over a three  
11 year term of the Note (approx 16.5% per year). \$300,000 was owed to  
12 Waikoloa Mauka under terms of the settlement.

13 Miroyan claims he was paid only \$360,000. In fact, the \$360,000 that  
14 the Kai's did provide was secured by a Mortgage for \$540,000 that included  
15 50% usurious interest built in (i.e. \$180,000 in interest) plus \$360,000  
16 totalling \$540,000 over 3 years, from May 2010 to May 2013.

17 Miroyan then turned to other parties for loans, Gang Chen and Cory  
18 Tereick, securing them with additional mortgages on his Waikoloa property.

19 In September of 2014, the First Mortgage holder Cory Tereick who put  
20 up \$90,000 initiated foreclosure proceedings in the Third Circuit Court by  
21 filing a foreclosure civil action in the Third Circuit Court case number 14-1-  
22 00429K.

23 In May of 2015, a new civil case for foreclosure was filed in the Kai v.  
24 Hawaiian Riverbend, LLC case number. On 2-12-2016, Hawaiian  
25 Riverbend LLC filed an Answer to the Kai's civil complaint that included  
26 Affirmative Defenses as well as a significant number of counterclaims and  
27 Third-Party claims against the Kai's. This was followed by an Amended  
28 pleading including Affirmative Defenses Counterclaims and Third-Party



1 Claims filed on 3-11-2016 which raise significant disputed material facts that  
2 go to the heart of the dispute that clearly establish triable issues of material  
3 facts in dispute that necessarily preclude the granting of Summary  
4 Judgment in favor of the Kai's by Judge Kim, clearly showing a significant  
5 level of bias exhibited by Judge Kim who failed to acknowledge any of  
6 Hawaiian Riverbend LLC's Affirmative Defenses or Counterclaims in any  
7 Judgments or Orders made by Judge Kim in his rulings granting Summary  
8 Judgment in favor of the Kai's, including his Findings of Fact and  
9 Conclusions of Law that makes absolutely no reference at all to any of the  
10 facts that emerge from HRB LLC's Answer, Affirmative Defenses and claims  
11 made in HRB's Counterclaims and Third-Party Claims made by HRB in  
12 either the LLC's 2-12-2016 filing, nor those made in the 3-11-2016 filing.

13 **10. JUDGE KIM THREATENS MIROYAN FOR THE UNAUTHORIZED**  
14 **PRACTICE OF LAW**

15 Attached to Miroyan's Affidavit of Bias as Exhibit 1 is a true and  
16 correct copy of the Minute Order from the **Tereick v. Hawaiian Riverbend,**  
17 **LLC Third Circuit Court Civil Case #: 14-1-00429K** from 4-13-2018 at the  
18 illegal and secret<sup>3</sup> hearing on Hawaiian Riverbend LLC's Attorney Sulla's  
19 move to Withdraw as Attorney.

20 Judge Kim, in granting Sulla's Motion to Withdraw, made in violation  
21 of Rule 25.1 of Hawaii's Code of Civil Procedure for failure to include  
22 Hawaiian Riverbend LLC's consent to the attorney withdrawal is one of 3  
23 examples cited by Miroyan where Judge Kim openly threatened Miroyan that  
24 he would personally call the Hawaii Attorney General's Office and report him  
25 for engaging in the unauthorized practice of law for simply the judge  
26 opposing an email pointing out a comparable property that they missed and

27  
28 <sup>3</sup> The illegality of the hearing is due to the fact that Miroyan was never notified of  
the hearing nor was he served with Sulla's moving papers



1 it was the best one.. The 4-13-2018 Minute Order states:

2 COURT: IF THE COURT GRANTS THIS MOTION, YOUR  
3 CLIENT IS UNABLE TO PARTICIPATE IN THIS  
4 CASE AS IT WOULD BE AN UNAUTHORIZED  
PRACTICE OF LAW.

5 SULLA: UNDERSTOOD

6 COURT: MOTION GRANTED: IN THE ORDER, WANT IT  
7 SPECIFIC THAT IN GRANTING THE  
8 WITHDRAWAL AS COUNSEL, THAT THIS  
9 ENTITY, HAWAIIAN RIVERBEND LLC IS UNABLE  
10 TO REPRESENT ITSELF, OTHERWISE IT IS  
ENGAGED IN THE UNAUTHORIZED PRACTICE  
OF LAW AND THE COURT WILL ONLY  
RECOGNIZE IT IF THEY HAVE SUBSTITUTE  
ATTORNEY

11 SCHLUETER: NOTES FOR THE RECORD, MICHAEL MIROYAN  
WAS SERVED AT SARATOGA ADDRESS.

12 COURT: HE IS NOT A PARTY, THE ENTITY IS; MR. SULLA TO  
13 PREPARE THE ORDER

14 Tereick v. Hawaiian Riverbend, LLC Third District Court Civil Case  
15 Number 3CC-14-1-00429K Minute Order dated 4-13-2018

16 **11. JUDGE KIM STATES ON THE RECORD THAT MIROYAN HAS NO  
STANDING BEFORE THE CIRCUIT COURT**

17 The above excerpt taken from the 4-13-2018 Third Circuit Minute  
18 Order explicitly demonstrates Judge Kim's belief that Miroyan has no  
19 standing to speak, appear or file any documents before him in the Tereick  
20 civil case. Judge Kim explicitly states in response to Attorney Schlueter's  
21 statement that Miroyan was served court documents at his Saratoga, CA  
22 address: COURT: HE IS NOT A PARTY

23 See Miroyan's Affidavit of Bias for further details on this issue.

24 Judge Kim's impartiality can reasonably be questioned by an objective  
25 onlooker because he has openly threatened to have Miroyan arrested and  
26 prosecuted for engaging in the unlicensed practice of law for merely  
27 attempting to speak on behalf of his 100% owned single member managed  
28 Hawaiian Riverbend LLC.

1 Only after Judge Kim illegally stripped Miroyan's LLC of its' legal  
2 counsel in the companion case Tereick 3CC-14--0429K on 4-13-2018,  
3 leaving it with no voice whatsoever at the all important Court Confirmation  
4 hearing did Miroyan sent an e-mail to all parties regarding the most recent  
5 comparable sale in Waikaloa Village, another 11 acre parcel with the exact  
6 same zoning, directly across the street and in a flood zone with less  
7 amenities that sold for \$1.5 million all cash on 4-24-2018.

8 Because of Judge Kim allowing Miroyan's LLC to be without  
9 representation, in clear violation of HRCP Rule 25.1, Miroyan stood up on  
10 the date of the Court Confirmation, July 19<sup>th</sup> 2018, to attempt to address the  
11 Court and to object on the record to the bogus BPO (Broker's Price Opinion)  
12 by David Lucas, Broker of KOA Realty who brought in the fraudulent BPO at  
13 \$240,000... \$300,000 less than the Tax Assessor's Office had valued the  
14 property; and nowhere near the true value of the property based on that \$1.5  
15 million dollar comparable, Judge Kim's response was to interrupt Miroyan to  
16 stop him from speaking and then he uttered these words:

17 **"Mr. Miroyan, you have no standing in this Court. If you say one**  
18 **more word, I will have the bailiff remove you from the**  
19 **Courtroom."**

20 Then Judge Kim motioned to the bailiff, who with his right hand on his  
21 holstered gun, came over behind Miroyan as he was sitting down. Judge  
22 Kim then adopted the \$240,000 fraudulent BPO of David Lucas and gave  
23 away the property for a mere \$120,000 credit bid to lender Tereick. This  
24 constitutes a legally sanctioned theft of at least \$1.3 million dollars based  
25 upon the actions of Judge Robert D.S. Kim, founded upon actual bias and  
26 prejudice. The result is manifest injustice.

27 Judge Kim ignored and super ignored an actual and factual recorded  
28 comparable sale at the Court Confirmation hearing. Judge Kim not only  
does not care about manifest injustice, he promotes it and he establishes it.

1 Judge Kim's actions promotes and establishes manifest injustice, the very  
2 thing he should be looking for to eradicate as a jurist. Any onlooker's  
3 conscience would be shocked at what they hear and what they see,. Any  
4 neutral observer would be shocked and flabbergasted. Such bias and  
5 prejudice as this exhibited by Judge Kim cannot be sanctioned by the  
6 Intermediate Court of Appeals, the U.S. Constitution or any American Court,  
7 State or Federal. Judge Kim needs to be immediately disqualified as a  
8 Judge and having nothing further to do with both Hawaiian Riverbend, LLC  
9 and Michael Miroyan. Judge Kim has no immunity for such actions where  
10 he knowingly breaks the law.

11 Based on these actions by this Judge Kim which any reasonable  
12 person with a grasp of the facts would conclude are criminal in nature and  
13 illegal, and when one has been so threatened as Miroyan has by this Judge,  
14 action is necessary to protect the assets of the LLC and to give it a voice in  
15 the Court proceedings to defend one's land from this street mugging and  
16 bludgeoning by this renegade Jurist.

17 Therefore, Michael Miroyan on 8-2-2018 called a meeting of the  
18 members of Hawaiian Riverbend, LLC in accordance with HRS Section 428-  
19 404(d) and being the sole member and manager of Hawaiian Riverbend  
20 (HRB) LLC passed a resolution acknowledging that HRB, LLC owed  
21 Miroyan \$1,958,000 and authorized the LLC to convey its' real estate to  
22 Miroyan so the interests of the LLC in Court could be represented by  
23 Miroyan In Propria Person.

24 The Action By Written Consent of Sole Member and Manager of  
25 Hawaiian Riverbend, LLC dated 8-2-2018 attached to Miroyan's Affidavit as  
26 Exhibit 3 states:

27 "WHEREAS the pending litigation necessitates having legal  
28 representation in Court but that the Company cannot appear for  
itself in Court without having legal counsel,,, authorized to

1 practice law in the State of Hawaii...

2 WHEREAS the Company lacks the financial means to hire legal  
3 counsel at this time;

4 WHEREAS the Member desires to appear in Court on behalf of  
5 the Company but is unable to represent the Company in Court;

6 RESOLVED, THEREFORE that in the business judgment of the  
7 Member after consideration of the alternatives available that it is  
8 in the best interests of the Company, its creditors, Member and  
9 other interested parties that the Company transfer assign and  
10 convey to Member its interest in the real property parcel owned  
11 by the Company TMK 6-8-002-053 in consideration of the  
12 Member assuming all liabilities and obligations of the Company  
13 and making all future court appearances."

14 The next thing that Miroyan did was to prepare a Memorandum Re:  
15 Assignment of Property Assets, also dated 8-2-2018 regarding conveyance  
16 from HRB, LLC to Mr. Michael Miroyan, 100% owner of the LLC's  
17 membership interests, attached to Miroyan's Affidavit as Exhibit 4. In that 2  
18 page document it states the reasons why Miroyan is owed \$1,958,000 by the  
19 LLC and In consideration of those money's owed, the LLC would transfer  
20 assign and convey its' interests to Miroyan.

21 Miroyan has a vested interest in this property greater than 3X the  
22 amount of any mortgage held by the Kai's. This 2 page memorandum is a  
23 brief history of the property from November of 2009 until August of 2018.

24 This proof of financial consideration for the transfer is explained in this  
25 2 page document. Essentially, it involves and incorporates three financial  
26 factors:

- 27 1. The property's valuation of \$1.5 million dollars at the time of the  
28 settlement in November of 2009. Miroyan conveyed the  
property into the LLC,. An individual could logically argue that  
Miroyan is owed at least \$3 million after 9 years; but Miroyan  
conservatively states he is owed \$1.5 million dollars by the LLC  
for sure.
2. The amount of Miroyan's salary owed accruing at \$3,500 per  
month gone unpaid from July of 2010 is \$378,000
3. Miroyan paid \$80,000 into the project in 2016.

1 Miroyan now includes a full verbatim paragraph from pg1 par2 of this  
2 document because this paragraph illuminates what is really going on, and  
3 that is this...

4 "(2) The Salary/management fee of Michael Miroyan, of \$3500 per month  
5 has gone unpaid even before the July 2012 Kai's breach of the  
6 Membership Purchase Agreement (MPA) signed in May 2010. The  
7 Kai's, in a flagrant breach of their fiduciary duty to fellow member  
8 Michael Miroyan, quit funding the project in a breach of their  
9 contractual duty. Unbeknownst to Miroyan, the Kai's had hired two  
10 lawyers in an effort to take the asset from Miroyan, the one who had  
11 invited the Kai's to join him in the venture for the sole purpose of him  
12 being able to pay back to the Kai's some \$400,000 in personal  
13 notes from 2006. Miroyan's salary owed to this date is in excess  
14 of \$378,000 and is financial consideration #2 for the transfer of the  
15 assets."

16 The Kai's BREACH OF THE MEMBERSHIP PURCHASE AGREEMENT  
17 (MPA) is stated above. The main reason that Miroyan invited the Kai's into this  
18 venture, as opposed to offering it to anyone else, was because of Miroyan's  
19 desire to pay the Kai's back the money that he owed them. These obligations  
20 \$400,000 in unsecured personal notes, and the \$125,000 loss of their Bond  
21 money, totalling \$525,000 were unsecured debts that Miroyan felt obligated to  
22 repay. Miroyan's honorable intention and desire led to the formation of the  
23 MPA and the Operating Agreement by which the LLC was to be governed.

24 **The goal of the LLC** was to be accomplished within 3 years, from May  
25 2010 to May of 2013. The stated goal in the LLC Operating Agreement, and  
26 that which was agreed to amongst the members, the Kai's and Miroyan, each  
27 representing 50% membership interests was to subdivide the 31 acres into 3  
28 parcels, to change the zoning on the 14.66 acre largest parcel from  
agricultural to commercial, thereby greatly increasing the property value.

Miroyan, as Managing Member was responsible for the processing of the  
sub-division, as well as the entitlement change on the 14.66 acre parcel while  
working in conjunction with Mr. Sidney Fuke, the LLC's hired Planning  
Consultant.

If Miroyan and Fuke could accomplish this dual task within 3 years and



1 within budget, the increase in property value should hopefully be enough to  
2 repay the Kai's approximately \$525,000<sup>4</sup>, and simultaneously with that  
3 payment the Kai's 50% membership interest in the LLC would revert back to  
4 Miroyan.

5 **The question was when would that repayment take place?** It is hard  
6 to predict 3 years in advance of where the market would be. The best  
7 guestimate was it may be possible to do a cash out refinance to the full  
8 amount of the existing First Mortgage held by the Kai's in the amount of  
9 \$540,000 and add it in a new First Mortgage in an additional \$525,000, which  
10 would allow for a new mortgage balance of approximately \$1 million.

11 If that was not possible at that time, it may be possible to increase the  
12 First Mortgage to \$700,000 or \$800,000, and thus getting ½ of the \$540,000  
13 paid back. Also when and if the Bank loaned the LLC money for on and off  
14 site improvements, it was quite possible from that source, monies could be  
15 used to pay back the Kai's the remainder of the obligation. Both parties being  
16 astute real estate investors, knew it's too hard to predict, these kinds of things,  
17 that we'd just have to wait till we got there.

18 Miroyan was responsible for repayment of the monies borrowed from the  
19 Kai's, irrespective of how many tens of millions of dollars the Kai's had.  
20 Miroyan agreed the Kai's were to be both First Mortgage holders and 50%  
21 owners of the LLC Membership interests simultaneously.

22 Ever heard of the adage "No good deed goes unpunished?" Here is a  
23 stunning and shocking example of it. Eighteen months into this 3 year deal,  
24 the Kai's changed course without telling Miroyan anything. Instead of being a  
25 fellow member working together with a common goal, they chose the path of  
26

---

27 <sup>41</sup> that being \$400,000 in notes, and \$125,000 in lost bond money posted by the Kai's on  
28 Miroyan's behalf on his Altadena Lane LLC development project...a project in which,  
when the Real Estate market imploded in 2007, he was unable to hold on to.



1 antagonism, destruction and self-serving behavior aka pure greed.

2 In violation of their fiduciary duty to Miroyan as a fellow member of the  
3 LLC, they chose a path to breach the membership purchase agreement and to  
4 renege on their financial obligations and promises therein, the result of which  
5 would be to destroy the deal and the agreed upon goal of the LLC for lack of  
6 funding. Unbeknownst to Miroyan was the fact was that the Kai's had  
7 surreptitiously hired lawyers in Honolulu. The lawyer they hired was Matthew  
8 Shannon from the firm of Bays Lung a large real estate firm from Honolulu.  
9 From this day forward, Miroyan was fighting two lawyers that he didn't even  
10 know existed. Miroyan was being lied to very well by the Kai's. Instead of  
11 pursuing a path of conduct consistent with their operating agreement and other  
12 contracts, they chose a path of engaging in conduct constituting Unfair and  
13 Deceptive Business Acts and practices, and violating one of the bedrock  
14 principles that is the foundation of every contract, a breach of the covenant of  
15 good faith and fair dealing. And as such, for this extreme greedy error in their  
16 judgment, and for their arrogance in believing they can pull it off, they must be  
17 punished with the same amount of non-existent mercy which they chose to  
18 adopt in this desisting course of conduct. The Kai's with all their monies,  
19 estimated net worth of \$80 million dollars, when faced with a man who was  
20 actively working to make things financially right, chose to destroy him, instead  
21 of honoring their MPA and their Operating Agreement, despite the fact that  
22 Miroyan successfully completed his end of the agreement in early 2013. The  
23 Kai's chose a path of avoiding Miroyan while still in breach of their capital calls.

24 For whatever reason the Kai's chose to try to financially kill the person  
25 who was trying to pay back his obligations. The Kai's chose a path to kill  
26 Miroyan financially and take his land

27 By December of 2012, Miroyan was without any funds, lost his wife and  
28 daughter and became homeless, a state that lasted for 4 ½ years.

1 In January of 2015, Miroyan received a phone call from an attorney he had  
2 never heard of, Matthew Shannon in Honolulu. Shannon stated he was  
3 attorney for the Kai's and that my obligations under the Mortgage were due  
4 and how was I to repay the alleged \$1.2 million dollar debt. Miroyan's  
5 response was that he did not owe \$1.2 million, Attorney Shannon said if you  
6 don't pay we are going to foreclose on the property.

7 Instead of honoring the promises made in this deal, 18 months into it,  
8 Their new attorneys advised the Kai's in how to successfully steal Miroyan's  
9 property by explaining how it was to be done, then providing the legal services  
10 to make it all happen.

## 11 **12. SUMMARY OF JUDGE KIM'S BIAS AND PREJUDICE GIVING RISE** 12 **TO MANIFEST INJUSTICE**

13 In this motion to recuse we are going to prove beyond a shadow of a  
14 doubt any reasonable onlooker would have to conclude that the judge is  
15 completely prejudiced against Miroyan while he is equally biased and prejudice  
16 in favor of the plaintiff.

17 If he is not prejudiced for the plaintiff , Why does he not allow Miroyan's  
18 claims of fraud etc. be heard in court... They were filed in Feb. 2016 six years  
19 ago !

20 Why does this judge not allow the fraud Miroyan can prove to be able to  
21 come in to court if he is not protecting the plaintiff and the crimes they have  
22 done in this case...???

23 OK how can this judge Kim grant summary judgment for the plaintiff and  
24 completely ignore the claims of fraud and crimes Miroyan alleges against the  
25 plaintiff???

26 This prejudice in favor of the plaintiff... this protection of the plaintiff and  
27 the crimes and forgery they have committed is not to be among the attributes  
28 of a neutral part and impartial referee .....

1 No reasonable onlooker no person who looks at the facts, can say :  
2 "oh that was judicial error or that was just a mistake that the judge made"  
3 Viewing these actions of this judge Kim in the totality of the circumstances it is  
4 impossible to say that these were simply judicial errors in the course of his  
5 duty....

6 No neutral , impartial referee would openly and continually threaten a  
7 defendant for doing nothing but communicating w/emails .....

8 Especially in light of the fact that it was Judge Kim who stripped Miroyan  
9 of his LLCs representation in allowing an attorney to withdraw in one of Kim's  
10 numerous secret clandestine hearings of which Miroyan was not even aware.

11 Name me any other judge says Miroyan , who, after being sued as the  
12 lead defendant in a federal civil rights lawsuit ignores it , remains on the case  
13 and continues to rule against the defendant ...name me that judge .

14 And then if that's not enough this judge not only ruled against decedent  
15 but after that federal lawsuit was filed He took two separate pieces of property  
16 legally owned by Michael Miroyan and ordered his Clerk and the Bureau of  
17 Conveyances to convey them back into the name of Hawaiian Riverbend LLC  
18 without Miroyan even knowing about it in this the Chen Case and also in the  
19 Kai case...

20 This outrageous and illegal conduct was orchestrated by this Judge Kim  
21 without due process of law; without the defendant being notified or given an  
22 opportunity to defend his transfer from the LLC into his own name ....which he  
23 did only after a written consent of the member/Manager and with a  
24 compensation explanation agreement and acceptance for responsibility  
25 including all liabilities for both properties on August 9, 2018 .

26 Miroyan submits that this Judge Kim has no authority to legally reverse  
27 ownership after it has been conveyed nor does he have the right to order his  
28 clerk to sign my name and transfer the vesting back into an LLC which is his

1 desire so the LLC will have no voice at the court confirmation hearings.

2 This is Kim's handiwork....and the result of this ....is what befell the first  
3 piece of property #52 Tereick versus Hawaiian Riverbend, LLC for \$120,000 a  
4 \$1.7 million piece of property was taken.... illegally... The order Kim signed  
5 wasn't signed until August 10, 2018 And Miroyan had transferred the property  
6 from Riverbend into his own name the day before on August 9, 2018.

7 This case smacks of favoritism; this case smacks of conspiracy ;  
8 this case is an abomination in front of anybody's eyes who looks at it ....

9 This Judge has granted summary judgment in favor of the plaintiffs ,, to  
10 ignore and not adjudicate all the counter claims filed by Miroyan in February  
11 and in March of 2016; this Judge has made sure Miroyan and his evidence are  
12 not allowed into court ; and to deny him any possible legal representation by  
13 allowing his attorney for the LLC to withdraw prior to the court confirmation  
14 hearings .... then this crooked Judge Kim, will grant the credit bids no matter  
15 how low they are for the 2 remaining properties ....

16 As previously stated, in the Tereick case, Judge Kim completely ignored  
17 the best and most recent comparable sale at \$1.5 million all cash directly  
18 across the street from Miroyan's/HR, LLC's property.

19 In the Tereick Case, Court confirmation hearing was held on July 19, 2018  
20 .... Two days before that court confirmation hearing on July 17, 2018, Miroyan  
21 sent an email to commissioner Schlueter , to the Judge Kim and to opposing  
22 counsel directly from Tax Assessor's office showing the recorded sale of this  
23 Property #57 same size of land 11 acres same zoning and five most recent  
24 sale less than 60 days old for \$1.5 million all cash and what did they do...?  
25 Nothing. Judge Kim had a fiduciary duty to look into that sold and recorded  
26 sale....

27 Judge Kim did nothing. Nothing.

28 Judge Kim knew about the sale ...but he would not acknowledge it ....

1 Instead, this Judge created and sustained manifest injustice !

2 Judge Kim participated in the stealing ....and in the fraud and conspired to  
3 steal an elderly senior citizens land in the United States of America.

4 What a reasonable onlooker would expect the judge to do is to verify the  
5 sale. Verify it with the lady who sent the email from the Tax Assessor's office,  
6 Raynette.

7 Once that verification is done, the multi million dollar question is how can  
8 lawyers Stephen Whittaker, Tereick's lawyer, lawyer Michael Schlueter, the  
9 crooked Commissioner, and of course the Judge Robert D.S. Kim, how can  
10 they all ignore this fact? How can they ignore the factual sale? It was pointed  
11 out to them ....they received the email 48 hours before the mockery of a court  
12 confirmation hearing ...and all they did was ignore it and super ignore it ....  
13 Is a judge supposed to ignore a factual recorded sale ??? and then adopt a  
14 fraudulent BPO, Koa realty Broker David Lucas' BPO that falsely stated there  
15 were no fair and accurate comparable sales in the entire village of Waikoloa  
16 Village ! See BPO of David Lucas who is a friend of attorney Stephen  
17 Whittaker's and who is also a friend of commissioner and attorney Michael  
18 Schlueter...

19 Look at these facts and then ask yourself why then is Judge Kim  
20 continually threatening Miroyan not to send an email ..... not to send the  
21 information to the judge or he's going to report him for practicing law without a  
22 license?

23 The simple answer is the Judge wanted to scare Miroyan, threaten  
24 Miroyan, intimidate Miroyan so that he would not have to answer how he could  
25 ignore a factual sale directly across the street from the property and  
26 simultaneously adopt a BPO by Lucas of \$240,000 , a ridiculously and  
27 absurdly low amount of money for that property !

28 The result of this conspiracy to defraud Miroyan was the stealing of \$1.5



1 million in equity by granting the credit bid of \$120,000 for a \$1.7 million piece of  
2 property.... and Now it's time for Judge Robert D.S. Kim to justify himself or get  
3 the off the bench in all cases involving Miroyan and Hawaiian Riverbend, LLC.

4 Third Circuit chief Judge Robert D.S. Kim is guilty of elderl abuse in  
5 conspiring to steal a senior citizens land in.the great state of Hawaii.

6 Attorneys Stephen Whittaker, The crooked Commissioner Schlueter, and  
7 their friend, the crooked, pathetic, dishonorable and disgusting real estate  
8 broker David Lucas, all 3 are guilty of elder abuse in the flagrant stealing of a  
9 senior citizens land .... That senior citizen is Mr. Michael Miroyan and his wholly  
10 owned LLC Hawaiian Riverbend and there is no immunity for such fraud in the  
11 great state of Hawaii.

12 To add insult to injury, the seller of that 11 acre piece of property across  
13 the street #57 on April 24, 2018, was none other than attorney Mr. Paul Sulla  
14 Jr, the lawyer Miroyan and Ryan Smith had hired to represent Hawaiian  
15 Riverbend LLC.

16 As you recall it was a secret clandestine hearing allowing Sulla, to  
17 withdraw in front of Judge Kim on April 13, 2018, without Miroyan's knowledge  
18 or consent as the manager of Hawaiian Riverbend LLC, in violation of rule 25.1  
19 of the Hawaii rules of civil procedure, in which case Miroyan signature was  
20 never on the order signed by judge Kim on April 30, 2018,

21 From these facts anyone knows the following to be true:

- 22 1) The withdrawal motion was purposely made in secrecy.
- 23 2) The hearing itself was also held in secrecy and in the LLCs manager who  
24 was supposed to be part of this process was left outside in the cold in the  
25 dark this thing being done without his knowledge or consent.
- 26 3) Sulla was in a hurry to withdraw because he knew he had a sale coming  
27 up (sale of #57 that would put him in a huge conflict of interest and which  
28 would have to be disclosed as a sale to Miroyan to the Bureau of  
Conveyances to the Tax Assessors Office showing the true value of HR's  
#52 if at least \$1.7 million and that sale would seriously and completely  
derail all the effort put into place in conspiring to steal Miroyan/HR's#52 .  
But the best plans of miscreants and thieves do go awry , don't they....



1 They have certainly gone awry here, haven't they? Sulla sold the property  
2 #57 while he represented Hawaiian Riverbend, LLC, on April 24, 2018.

3  
4 Judge Kim didn't sign the order allowing Sulla, to withdraw until April 30,  
5 2018.

6 The timing of that which they wanted to do, allow Sulla to withdraw as  
7 attorney so that he could sell the property without having to disclose it without  
8 any fiduciary duty to HR, LLC, is highly questionable but it's certainly not  
9 questionable while he was still the attorney of record!

10 Does anybody want to call this judicial error or inadvertence???

11 Oh, after reading these facts, and understanding the sequence of that  
12 which occurred here, who can say that Judge Kim was right in threatening and  
13 continually intimidating and scaring Miroyan from the bench and that it was  
14 reasonable that he do so?

15 There is only one thing to be done by this Intermediate court of appeals, or  
16 by the Hawaii state Supreme Court or by the ninth circuit court of appeals or by  
17 the Supreme Court of United States of America and that is to have Judge Kim  
18 removed from this case ; and have an investigation launched by the  
19 white-collar crime unit of the FBI and the United States attorneys office and  
20 indictments to follow for all five of these lawyers/Bad state actors to try to set  
21 an example that the great state of Hawaii is not proud of being the second  
22 most crooked state in the United States but rather is doing something about it  
23 to protect American citizens from lawyers and piranhas who conspire like this.

24 **13. MIROYAN ADDRESSES JUDGE KIM'S BIAS AGAINST HIM BY**  
25 **FILING A CIVIL RIGHTS LAWSUIT UNDER 42 USC § 1983 LAWSUIT**  
**AGAINST JUDGE KIM**

26 As a result of Judge Kim's bias against him and the multiple instances of  
27 Judge Kim denying Miroyan access to the Courts and preventing him from  
28 speaking on behalf of himself or his 100% managed and owned Hawaiian

1 Riverbend, LLC, and the multiple violations of his Constitutional Rights,  
2 Miroyan filed a Civil Rights lawsuit on 6-21-2019 against Judge Kim in the  
3 United States District Court for the Northern District of California Case #: C-19-  
4 03626-NC.

5 Attached as Exhibit 5 to the Affidavit of Bias of Michael Miroyan is a true  
6 and correct copy of an e-mail dated 6-24-2019 sent from Miroyan to Judge Kim  
7 confirming Miroyan's filing of his Civil Rights lawsuit against him.

8 The e-mail states:

9 "Dear Judge Kim:

10 You're being sued by Michael Miroyan and enclosed here with his  
11 lawsuit and the summons will follow in the next email. I would  
12 appreciate you accepting service but it doesn't matter the Attorney  
13 General for the State of Hawaii has already received these  
14 documents. And there are protocols in place for you to accept service  
15 via US mail. And because of the filing of this adversarial complaint  
16 against you for your illegal acts civil rights violations and fraud just to  
17 name a few and because it is an ongoing litigation it would be wholly  
18 inappropriate for you to lash out and do me anymore damage...from  
19 your bench as you have no right to rule in this case any longer. The  
20 good Lord and his angels know what damage you have done and so  
21 do I, it is 3:21 PM Hawaii Standard Time on June 24 and you cannot  
22 make any ruling on this matter until after 4:00 PM and you've been  
23 notified. That you've been you're being sued by me so any ruling that  
24 you do detrimental to me will be void and will be reviewed by  
25 somebody else. As if you haven't done enough damage already by  
26 ignoring actual and factual sales data when it is put right under your  
27 nose. That which you stole was not yours nor did you earn it. It's going  
28 to have to be returned hopefully otherwise there is no justice  
whatsoever in Hawaii and that will be plain for all to see.

Michael Miroyan.

21 The remainder of the Exhibit includes the Summons issued by the Clerk,  
22 the handwritten endorsed file stamped first page of the lawsuit, followed by a  
23 typewritten version of the lawsuit

24 **14. CODE OF CONDUCT FOR UNITED STATES JUDGES CANON 3C(1)**  
25 **MANDATES RECUSAL WHEN A JUDGE IS SUED**

26 Since Hawaii's Judicial disqualification/recusal law is identical to the  
27 Federal statute regarding a litigant filing an affidavit of bias as well as requiring  
28 disqualification or recusal of a Judge when his impartiality may be questioned,

1 it is appropriate to refer to Federal recusal law for guidance as to when Hawaii  
2 Judges are required to recuse themselves mandatorily or not, and if not, what  
3 are the relevant factors to consider before disqualification or recusal. A Judge  
4 being sued by a litigant is one of those instances where Federal law mandates  
5 recusal of a judge.

6 Canon 3C(1) of the Code of Conduct of United States Judges provides:

7 “(1) A judge shall disqualify himself in a proceeding in which the judge’s  
8 impartiality might reasonably be questioned, including but not limited to  
instances in which:

- 9 (a) the judge has a personal bias or prejudice concerning a party...  
10 (d) the judge..... is  
11 (i) a party to the proceeding  
12 (iii) known... to have an interest that could be substantially  
13 affected by the outcome of the proceeding,  
14 (iv) ..... likely to be a material witness in the proceeding”

15 All 3 of the above enumerated situations were likely outcomes as a direct  
16 consequence of Miroyan’s filing of his Civil Rights Lawsuit naming Judge Kim  
17 as the named lead Defendant in the case, facts that the law as cited above  
18 mandate recusal, and result in the integrity of the judge and the judicial system  
19 to be called into question if it is not.

20 **15. JUDGE KIM’S PERMITTING FILING OF PLEADINGS AND ISSUING  
21 RULINGS IN CHEN CASE DESPITE THE U.S. BANKRUPTCY  
22 COURT’S AUTOMATIC STAY ARISING FROM MIROYAN’S 11-26-  
23 2018 U.S. BANKRUPTCY COURT FILING**

24 On 11-26-2018, Miroyan filed for Bankruptcy in the U.S. Bankruptcy Court  
25 for the Northern District of California in Case Number 18-52601-MEH-13. In  
26 the Kai civil case on 12-20-2018, Opposing Counsel filed a Notice of  
27 Bankruptcy Filing, notifying all parties and the Court of the BK Filing and the  
28 corresponding imposition of the Automatic Stay on the Court proceedings by  
law. The filing of this Notice is conclusive evidence of Judge Kim being  
officially aware and on notice of Miroyan’s Bankruptcy filing, however, in the  
Chen civil case, a review of the Docket clearly demonstrates that Opposing

1 Counsel Karyn Doi did in fact file a Motion for Summary Judgment while the  
2 automatic stay was in full force and effect, and that Judge Kim signed off on an  
3 Order granting Summary Judgment done illegally while the Bankruptcy Court  
4 stay was in force.

5 A review of the Chen civil case docket reveals the following to have taken  
6 place after Miroyan's 11-26-2018 Bankruptcy Court filing:

7 **DE Date of Filing Description of Document**

8 16 12/20/2018 NOTICE OF HEARING AND CERTIFICATE OF SERVICE  
9 (HRG: 2/14/19 AT 8:00 A.M. BEFORE JUDGE KIM)  
10 PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND  
11 FOR INTERLOCUTORY DECREE OF FORECLOSURE  
AGAINST ALL PARTIES; MEMORANDUM IN SUPPORT OF  
MOTION; DECLARATION OF INDEBTEDNESS; EXHIBITS  
"1"-"4";

12 28 02/14/2019 Minutes

13 DIGITAL RECORDING CC3.19-28/  
14 2019-2-14/0811-0812 FO CLERK - L. FURUTO  
15 APPEARANCES: PLAINTIFF COUNSEL - D. KIKAWA  
16 (BY PHONE) COURT: DEFENDANT HAS BEEN  
DEFAULTED. KIKAWA: YES COURT: DEFAULT HAS  
17 BEEN ENTERED IN NOVEMBER RESPONSE BY  
KIKAWA \*\*\*RULING\*\*\* COURT WILL GRANT THE  
MOTION FOR SUMMARY JUDGMENT

18 17 03/08/2019 Findings/Fact Concl of Law-Ord

19 (COMMISSIONER: ANDREW M. KENNEDY)  
20 FINDINGS OF FACT; CONCLUSIONS OF LAW; AND  
21 ORDER GRANTING PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT, AND INTERLOCUTORY  
DECREE OF FORECLOSURE AGAINST ALL  
PARTIES FILED DECEMBER 20, 2018; EXHIBIT "A"

22 18 03/08/2019 Document JUDGMENT

23 19 03/08/2019 Document NOTICE OF ENTRY OF JUDGMENT

24 20 03/08/2019 Document \*MAILED/DELIVERED COPIES OF NOTICE OF  
ENTRY OF JUDGMENT TO PARTIES THEREIN

25 **16. JUDGE KIM'S IMPROPER GRANT OF SUMMARY JUDGMENT**

26 Miroyan's submits as further proof of Judge Kim's bias against him are the  
27 facts and circumstances surrounding Judge Kim's clearly erroneous and  
28

1 biased grant of Summary Judgment granted to the Kai's despite Hawaiian  
2 Riverbend's having filed Affirmative defenses along with Counterclaims and  
3 Third-Party claims that simply do not permit the granting of Summary  
4 Judgment in this case.

5 The fact that Judge Kim did so despite all of the evidence raising multiple  
6 triable issues of fact is further evidence of judicial bias. Judge Kim's conduct  
7 mandates his recusal. It is clearly evident that Judge Kim both exhibits  
8 extreme bias and hostility against both Miroyan and Hawaiian Riverbend LLC  
9 while at the same time Judge Kim favors the other side and their Honolulu  
10 attorneys, and its' obvious to any onlooker who cares to notice.

11 Furthermore, the fact is that on 3-11-2016 Hawaiian Riverbend LLC filed  
12 its' Amended Answer to the Chen Complaint that includes counterclaims as  
13 well as Third-Party Claims as a follow up to Hawaiian Riverbend LLC's initial  
14 Answer Affirmative Defenses, Counterclaims and Third-Party claims filed on 2-  
15 12-2016. These pleadings filed on behalf of Hawaiian Riverbend LLC clearly  
16 establish that there are significant material issues of triable fact that are in  
17 dispute in this case. The law is clear that under these circumstances, it is not  
18 permissible to grant a Summary Judgment Motion as was done here by Judge  
19 Kim, who could only do so by completely ignoring the existence of Hawaiian  
20 Riverbend LLC's having filed Affirmative Defenses, Counterclaims and Third-  
21 Party claims in two separate document filings in the Kai civil case.

22 Nowhere in Judge Kim's Orders on Summary Judgment is any reference  
23 made whatsoever to either the Affirmative Defenses made by Miroyan through  
24 his LLC nor the counterclaims and Third-Party claims made by Hawaiian  
25 Riverbend, LLC in both the 2-12-2016 filing, nor the 3-11-2016 filings made in  
26 the Kai civil case.

27 The law does permit reference to facts on the record to support a claim of  
28 judicial bias, especially as is the case here where the facts clearly show actual



1 bias exhibited by the Judge. There is no doubt that any onlooker would  
2 question the impartiality and integrity of Judge Kim and the clear bias that such  
3 actions demonstrate from the granting of a Summary Judgment Motion in clear  
4 violation of the decisional case law that governs the granting or denial of  
5 Summary Judgment motions.

6 The law that governs a Judge's grant of summary judgment is found in  
7 GECC v. Jaffarian as follows:

8 "Summary judgment is a drastic remedy. To avoid improperly  
9 depriving a party to a lawsuit of the right to a trial on disputed factual  
10 issues, summary judgment must be "cautiously invoked." Miller v.  
Manuel, 9 Haw.App. 56, 65-66, (1991), cert. denied, 72 Haw. 618,  
(1992).

11 Summary judgment should only be granted if the pleadings, depositions,  
12 answers to interrogatories, and admissions on file, together with the  
affidavits, if any (hereinafter "relevant materials"), show that there is no  
13 genuine issue as to any material fact and that the moving party is entitled  
to a judgment as a matter of law. Hawaii's Rules of Civil Procedure  
(HRCP) Rule 56 ( c).

14 The moving party's burden of proof is a stringent one, since the  
15 inferences to be drawn from the underlying facts alleged in the  
relevant materials considered by the court in deciding the motion  
16 must be viewed in the light most favorable to the non-moving party,  
Fernandes v. Tenbruggencate (1982) 65 Haw. 226, 228, and any  
17 doubt concerning the propriety of granting the motion should be  
resolved in favor of the non-moving party. Wright v. Fireman's Fund  
18 Ins. Cos. (1992) 11 Cal.App.4th 998, 1011; 10 Wright's Federal  
Practice § 2716, at 643-46.

19 **17. LAW REQUIRING MOVING PARTY TO DISPROVE EVERY**  
20 **AFFIRMATIVE DEFENSE ASSERTED AGAINST IT**

21 The Court in GECC v. Jaffarian discussed the legal ramifications of  
22 how a Court must rule when affirmative defenses are plead as is the case  
23 here as follows:

24 "Where the moving party is the plaintiff, who will ultimately bear the  
burden of proving plaintiff's claim at trial, the plaintiff must:

- 25 (1) establish, by the quantum of evidence required by the  
26 substantive law, each element of its claim for relief, Beamer v.  
Nishiki (1983) 66 Haw. 572, 578; and  
27 (2) **disprove every affirmative defense asserted against it.**  
28 **Wright, 11 Cal.App.4th at 1011-12; SAC Constr. Co. v.**

Eagle Nat'l Bank, 449 So.2d 301 (Fla.App.1984).

In disproving an affirmative defense for summary judgment purposes, the plaintiff's evidentiary standard is similar to the evidentiary standard of a defendant moving for summary judgment on the plaintiff's claims.

Therefore, the plaintiff is required to either:

- (1) produce relevant materials that negate an element essential to the affirmative defense,  
Weeks, 70 Haw. at 396-97; 6 Moore's Federal Practice ¶ 56.15[3] at 56-268; or
- (2) demonstrate that if the case went to trial, there would be no competent evidence to support a judgment for the defendant on the affirmative defense.

Weeks, 70 Haw. at 396-97, 772. (Emphasis Added)"

GECC Financial Corp. v. Jaffarian (1995) 904 P.2d 530 @ 535-536.

The facts clearly show that Judge Kim granting Summary Judgment in the Kai case despite Hawaiian Riverbend LLC's having filed Affirmative Defenses and Counterclaims/Third Party Claims both on 2-12-2016 and 3-11-2016. These facts were completely ignored by Judge Kim in his rulings on this issue including his findings of fact and conclusions of law. These facts clearly demonstrate bias on the part of Judge Kim against Miroyan and Hawaiian Riverbend, LLC and bias in favor of the Kai's in this matter.

Specifically, in the 3-11-2016 Amended Answer, Counterclaims and Third-party claims the following affirmative defenses were pleaded:

#### **AFFIRMATIVE DEFENSES**

<b>FIRST DEFENSE:</b>	<b>Failure to state a claim</b>
<b>SECOND DEFENSE:</b>	<b>Defenses of release and waiver.</b>
<b>THIRD DEFENSE:</b>	<b>Defenses of accord and satisfaction.</b>
<b>FOURTH DEFENSE:</b>	<b>Defenses of estoppel.</b>
<b>FIFTH DEFENSE:</b>	<b>Defense of failure of consideration.</b>
<b>SIXTH DEFENSE:</b>	<b>Statute of frauds.</b>
<b>SEVENTH DEFENSE:</b>	<b>Defense of impossibility and related defenses.</b>
<b>EIGHTH DEFENSE:</b>	<b>Complaint and any recovery thereunder is</b>
<b>NINTH DEFENSE</b>	<b>barred by Plaintiffs' actions, which constitute</b>
	<b>unfair dealings, misrepresentations,</b>

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retaliatory action, detrimental reliance, fraud, unclean hands, pari delicto, lack of good faith, unconscionability, and unavoidable consequences.

**TENTH DEFENSE:** Defense of failure to mitigate damages caused solely by Plaintiff or others over whom Defendants had no control.

**ELEVENTH DEFENSE:** Defense of set-off,

**TWELFTH DEFENSE:** Defense of ambiguity.

**THIRTEENTH DEFENSE:** Defense of the lack of proper notice.

**FOURTEENTH DEFENSE:** Defense that acts or omissions of which Plaintiffs complains were caused by Plaintiffs and/or its agents or representatives.

**FIFTEENTH DEFENSE:** Any other matter constituting an avoidance or affirmative defense as set forth in Rule 8 of the Hawaii Rules of Civil Procedure.

**19. FRAUD UPON THE COURT WAS COMMITTED IN THE KAI CASE WHEN FORGED DOCUMENTS BASED ON FRAUDULENT NOTARIZATIONS WERE FILED**

San Jose California Notary Quang Hang Hung fraudulently notarized 2 documents, the first document fraudulently notarized is the Second \$300,000 Mortgage that was filed on 2-4-2019 as the Kai's Proof of Claim made in the U.S. Bankruptcy Court, an 81 page document. The forged document is found on pages 46-50 of the 81 page document and was fraudulently notarized on 8-8-2013 by California Notary Quang Hang Hung. Just like the fraudulently notarized First Amendment of Promissory Note, a discrepancy exists between the document DB numbers in the main document versus a different document number on Notary Quang Hang Hung's notarization page, evidencing this further Fraud Upon the Court.

San Jose, California Notary Quang Hang Hung has fraudulently notarized Miroyan's signature on the First Amendment of Promissory Note executed by Miroyan on 8-7-2013, yet wasn't notarized by Notary Quang Hang Hung until 8-10-2013. This is preposterous and outrageous due to the fact that Miroyan never has his signature notarized except on the date he signs it and the Notary witnesses his signature. Furthermore, Miroyan does not notarize Promissory Notes in the State of Hawaii. Evidence of forgery in this matter is found in the

1 discrepancy between the DB document numbers noted on the bottom right  
2 hand corner of the document **whereas a different DB number is found on**  
3 **the Notary's page.** The fact that this document is a forgery is corroborated by  
4 the fact that so much time elapsed from the date of signing 8-8-2013, and the  
5 date it was recorded with the Hawaii Bureau of Conveyances on 11-13-2013,  
6 and the fact that the First Amendment of Promissory Note, was due just 18  
7 days later on 12-1-2013, something that Miroyan would never sign or agree to.

8 **20. EX PARTE COMMUNICATIONS WITH JUDGE KIM AND OPPOSING**  
9 **COUNSEL REQUIRE DISQUALIFICATION/RECUSAL OF JUDGE KIM**

10 In the Chen case, the docket contains clear evidence that neither Miroyan  
11 nor Hawaiian Riverbend LLC were served with a large number of documents  
12 on the Court docket. This includes documents filed and Court Orders  
13 rendered by Judge Kim when all legal proceedings against Miroyan must have  
14 been stopped as a result of the imposition of the US Bankruptcy Court's  
15 Automatic Stay Provisions arising as of 11-26-2019, when Miroyan filed his BK  
16 Petition in the US Bankruptcy Court for the Northern District of California. This  
17 necessarily means that Judge Kim's grant of Summary Judgment in the Chen  
18 case is Void on its' Face, subject to collateral attack by Miroyan, and gives rise  
19 to both civil and criminal consequences for Violating the Automatic Stay  
20 provisions of the U.S. Bankruptcy Law.

21 Miroyan was never served with a large number of the pleadings, nor  
22 informed of the corresponding hearings in the Chen case despite Judge Kim's  
23 knowledge of Miroyan and HRB's involvement and participation in the Kai v.  
24 Hawaiian Riverbend LLC in both the Third Circuit before him, as well as in the  
25 Intermediate Court of Appeals case. These facts provide clear evidence of  
26 Judge Kim's illegal Ex Parte communications with Chen's counsel Karyn Doi in  
27 the Chen case.

28 Engaging in such Ex Parte communications raises serious issues for

1 Judge Kim's conduct. These legal issues were discussed in a case before  
2 Hawaii's Intermediate Court of Appeals - Moran v. Guerrero where the Court  
3 stated:

4 "Canon 3(B)(7) of the Hawai'i Code of Judicial Conduct, which is  
5 identical to Canon 3(B)(7) of the American Bar Association Model  
6 Code of Judicial Conduct (2000 ed.), states, with respect to ex parte  
7 communications, in relevant part, as follows:

8 (7) **A judge shall accord to every person who has a legal  
9 interest in a proceeding, or that person's lawyer, the right  
10 to be heard according to law. A judge shall not initiate,  
11 permit, or consider ex parte communications, or consider  
12 other communications made to the judge outside the presence  
13 of the parties...**

14 The reason that ex parte communications are barred is to  
15 insure that "every person who is legally interested in a proceeding is  
16 given the full right to be heard according to law."

17 Ex parte communications deprive the absent party of the right  
18 to respond and be heard. They suggest bias or partiality on the part of  
19 the judge. Ex parte conversations or correspondence can be  
20 misleading; the information given to the judge "may be incomplete or  
21 inaccurate, the problem can be incorrectly stated." At the very least,  
22 participation in ex parte communications will expose the judge to  
23 one-sided argumentation, which carries the attendant risk of an  
24 erroneous ruling on the law or facts. At worst, ex parte  
25 communication is an invitation to improper influence if not outright  
26 corruption.

27 J. Shaman, S. Lubet & J. Alfini, Judicial Conduct and Ethics § 5.01, at  
28 159-60 (3d ed.2000) (footnotes and brackets omitted).  
Moran v. Guerrero (2001) 37 P.3d 603 at 622.

## 19. **ACTUAL BIAS OF JUDGE IS CONSTITUTIONALLY IMPERMISSIBLE**

20 "If Judge Garippo exhibited some actual bias in conducting the trial,  
21 Del Vecchio would have had a valid Fourteenth Amendment claim.  
22 "Fairness of course requires the absence of actual bias in the trial of a  
23 case." Murchison, 349 U.S. at 136.

24 Del Vecchio v. Illinois Dept. of Corrections (1994) 31 F. 3d 1363 at  
25 1379.

## 26 **20. CONCLUSION**

27 This Court stated that:  
28




1 "in the administration of justice by a court of law, no principle is better  
2 recognized as absolutely essential than that in every case, be it  
3 criminal or civil, and the parties involved therein are entitled to the  
4 'cold' neutrality of an impartial judge."

5 Peters v. Jamieson (1964) 48 Haw. 247, 262..

6 Based upon the foregoing arguments and authority, and the promise  
7 made in Jamieson, Judge Kim should be disqualified or should recuse  
8 himself from all litigation involving Michael Miroyan and/or Hawaiian  
9 Riverbend LLC due to his clear bias as evidenced from his biased  
10 statements and conduct.

11 Dated: 1/31/22

Respectfully submitted,

12 

13 Michael Miroyan  
14 In Propria Persona  
15 Manager/Member of  
16 Hawaiian Riverbend, LLC  
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1 **STATE OF HAWAII REVISED CODE OF JUDICIAL CONDUCT**  
2 **Rule 2.11. DISQUALIFICATION OR RECUSAL**

3 (a) Subject to the rule of necessity, a judge shall disqualify or recuse  
4 himself or herself in any proceeding in which the judge's impartiality\* might  
5 reasonably be questioned, including but not limited to the following  
6 circumstances:

7 (1) The judge has a personal bias or prejudice for or against a party or a  
8 party's lawyer, or personal knowledge\* of facts that are in dispute in the  
9 proceeding.  
10 ...

11 **Code Comparison**

12 The Hawai'i Revised Code of Judicial Conduct modifies ABA Model Code  
13 Rule 2.11 by adding "recusal" consistent with Hawai'i's distinction between  
14 disqualification and recusal,

15 **COMMENT:**

16 [1] Under Rule 2.11(a), a judge is disqualified or recused whenever the  
17 judge's impartiality might reasonably be questioned, regardless of whether any  
18 of the specific provisions of Rules 2.11(a)(1) through (6) apply.

19 [2] A judge's obligation to disqualify or recuse himself or herself under  
20 these Rules applies regardless of whether a motion to disqualify or recuse is  
21 filed.

22 [3] As provided for in Rule 2.11(a), the rule of necessity may override  
23 the rule of disqualification or recusal. For example, a judge might be required  
24 to participate in judicial review of a judicial salary statute, or might be the only  
25 judge available in a matter requiring immediate judicial action, such as a  
26 hearing on probable cause or a temporary restraining order. In matters that  
27 require immediate action, the judge must disclose on the record the basis for  
28 possible disqualification or recusal and make reasonable efforts to transfer the  
matter to another judge as soon as practicable.

[7] Rule 2.11(d) is intended to ensure that a judge may exercise his or  
her informed discretion without consideration of a potential challenge to the  
recusal decision at a later point in the proceeding...

(Amended June 17, 2014, effective July 1, 2014.)

1 Michael Miroyan  
2 P.O. Box 3181  
3 Saratoga, CA 95070  
4 Tel: (408) 913-3123  
5 E-mail: mac8881@me.com

6 Petitioner in Propria Persona

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**  
10

11 GANG CHEN,

12 Plaintiff,

13 v.

14 HAWAIIAN RIVERBEND, LLC,

15 Defendant.

16 **CIV. NO. 3CC-16-1-00043K**

17 } MICHAEL MIROYAN'S AFFIDAVIT  
18 } OF JUDICIAL BIAS IN SUPPORT  
19 } OF MOTION TO DISQUALIFY  
20 } OR RECUSE JUDGE ROBERT  
21 } D.S. KIM

22 } [HRS 601-7(b)]

23 I, Michael Miroyan being of sound mind and body do hereby declare  
24 every word of the following to be true and made in good faith:

25 1. My life for the last seven and a half years has been one of intense  
26 misery and frustration. Due to three foreclosure actions brought against me  
27 and my wholly owned Hawaiian limited liability company Hawaiian Riverbend,  
28 LLC. The misery comes not from the filings because the three properties all  
have plenty of equity no the misery comes from being denied access to the  
courts in Hawaii by Judge Robert D.S. Kim of Hawaii's Third Circuit Court  
located in Kona.

29 2. Judge Kim is biased and prejudiced against me and simultaneously  
30 he is biased in favor of the plaintiff and their Honolulu attorneys specifically  
31 Michael Carroll "rising star in 2013-2015" in Super Lawyers magazine and his  
32 protégé Matthew Shannon both of whom are guilty of fraud upon the court and  
33 fraud against me a senior citizen 69 years old, constituting Elder Abuse.

34 3. In this declaration sworn under penalty of perjury and duly notarized

1 I shall unequivocally prove that both of these lawyers have broken state and  
2 federal laws in Hawaii, California and as such in my opinion should be  
3 disbarred. No onlooker to the events that will be described here will be able to  
4 say that judge Kim does not harbor animosity toward Michael Miroyan and his  
5 LLC, and any onlooker will definitely say that Kim's actions are simultaneously  
6 biased in favor of the plaintiffs the Kai's and their Honolulu attorneys.

7 4. There comes a time when the truth must be told no matter who it  
8 may offend and no matter who it may hurt because the truth is the truth and it  
9 speaks for itself - it reveals liars; It reveals fraud; It reveals motives and  
10 illuminates that which is necessary for a reader to grasp the totality of the  
11 circumstances and get a firm understanding of all events so as to make all  
12 matters clear.

13 5. This affidavit of judicial bias is made pursuant to HRS Section  
14 601-7(b) which states:

15 "Whenever a party to any suit, action, or proceeding, civil or criminal,  
16 makes and files an affidavit that the judge before whom the action or  
17 proceeding is to be tried or heard has a personal bias or prejudice  
18 either against the party or in favor of any opposite party to the suit, the  
19 judge shall be disqualified from proceeding therein. Every such  
20 affidavit shall state the facts and the reasons for the belief that bias or  
21 prejudice exists and shall be filed before the trial or hearing of the  
22 action or proceeding, or good cause shall be shown for the failure to  
23 file it within such time. No party shall be entitled in any case to file  
24 more than one affidavit; and no affidavit shall be filed unless  
25 accompanied by a certificate of counsel of record that the affidavit is  
26 made in good faith..."

27 6. Attorney Paul Sulla Jr. was hired by Ryan Smith, CFO of Hawaiian  
28 Riverbend LLC while Miroyan was incarcerated in January of 2016. Mr. Sulla  
entered appearances in 2 civil cases before the Third Circuit Court. These  
cases were Tereick v. Hawaiian Riverbend, LLC - civil case number 14-1-  
00429K as well as Kai v. Hawaiian Riverbend, LLC - civil case number 15-2-  
0164K. Subsequent to Attorney Sulla's withdrawal from both cases, done in  
clear violation of Hawaii Rules of Civil Procedure Rule 25.1, that render's

1 Judge Kim's Order granting Sulla's Motion to withdraw as counsel to be void  
2 on it's face, subject to collateral attack as a Void Order. Specifically Rule 25.1  
3 (b)(5) clearly states:

4 "A withdrawal and substitution of counsel shall:

5 (5) Include the signature of the represented party, indicating the  
6 represented party's consent to the withdrawal and substitution"

7 7. Since I never signed any document that consented to the  
8 withdrawal and substitution, and since this provision is a necessary pre-  
9 requisite that the law requires before allowing an attorney's withdrawal from the  
10 case, it necessarily follows that failure of Attorney Sulla to obtain my signature  
11 to his withdrawal render's the Order granting Attorney Sulla's Motion to be void  
12 on its' face subject to a HRCF Rule 60 Motion to vacate a Void Order.  
13 Furthermore, allowing Sulla to Withdraw without securing licensed counsel to  
14 replace Sulla results in the LLC to be without legal counsel which is simply  
15 illegal. This act by Judge Robert D.S. Kim was done in clear violation of the  
16 law and the decisional case law governing the procedure that the law requires  
17 under the circumstances. Ninth Circuit precedent from the U.S. District Court  
18 in Laskowitz v. Shellenberger (1952) 107 F.Supp. 397 disallowed a Motion for  
19 Attorney withdrawal noting that withdrawal of counsel was not the proper  
20 procedure, rather substitution of counsel was the proper means that the law  
21 permitted. The Court in Laskowitz stated:

22 "In any event a withdrawal of attorneys is not the proper course. A  
23 substitution of attorneys approved by the Court is the method of  
24 changing representation. The purported withdrawal of attorneys is  
25 disallowed."

26 Laskowitz v. Shellenberger (1952) 107 F.Supp. 397.

27 8. Attached to this Affidavit of Bias as Exhibit 1 is a true and correct  
28 copy of the Minute Order relating to Attorney Paul Sulla's Motion to Withdraw  
as counsel. This is written evidence supporting my claim that Judge Kim has



1 threatened to report me to the Hawaii Attorney General's Office for the  
2 unauthorized practice of law when I have attempted to speak personally  
3 regarding my 100 per cent interest in Hawaiian Riverbend LLC and my status  
4 as sole Managing Member of the LLC. The 4-13-2018 Minute Order  
5 corroborates this Affidavit of Judicial Bias where I maintain that I have been  
6 threatened by Judge Kim at least twice to have the Hawaii Attorney General  
7 file criminal charges against me for the unauthorized practice of law for  
8 attempting to speak as the 100% owner of the single member single manager  
9 Hawaii Limited Liability Company (LLC). The 4-13-2018 Minute Order states:

10 COURT: IF THE COURT GRANTS THIS MOTION, YOUR  
11 CLIENT IS UNABLE TO PARTICIPATE IN THIS CASE  
AS IT WOULD BE AN UNAUTHORIZED PRACTICE OF  
LAW.

12 SULLA: UNDERSTOOD

13 COURT: MOTION GRANTED; IN THE ORDER, WANT IT  
14 SPECIFIC THAT IN GRANTING THE WITHDRAWAL  
15 AS COUNSEL, THAT THIS ENTITY, HAWAIIAN  
16 RIVERBEND LLC IS UNABLE TO REPRESENT  
17 ITSELF, OTHERWISE IT IS ENGAGED IN THE  
UNAUTHORIZED PRACTICE OF LAW AND THE  
COURT WILL ONLY RECOGNIZE IT IF THEY HAVE  
SUBSTITUTE ATTORNEY

18 SCHLUETER: NOTES FOR THE RECORD, MICHAEL MIROYAN  
WAS SERVED AT SARATOGA ADDRESS.

19 COURT: HE IS NOT A PARTY, THE ENTITY IS; MR. SULLA TO  
20 PREPARE THE ORDER

21 (Emphasis Added.)

22 Tereick v. Hawaiian Riverbend, LLC 4-13-2018 Minutes of Court

23 9. In 2013, I successfully had the 31 acres of land subdivided into 3  
24 new lots, including 14 acres rezoned from Agricultural to Commercial.  
25 According to the Fact Sheet prepared by Commissioner Andrew Kennedy  
26 advertising a 1-18-2022 Foreclosure Auction date, a document showing that  
27 the property was assessed by the Tax Assessor's office to be valued close to  
28

1- \$3.5 million, almost 3 times the amounts claimed to be owed on the property. I  
2 wish to point out that the real amount of cash that the Kai's did in fact pay to  
3 Hawaiian Riverbend LLC is in the vicinity of \$360,000, and at least \$180,000 in  
4 50% usurious interest was added to the face value of the initial \$540,000  
5 Promissory Note, secured by a First Mortgage for \$540,000 recorded with  
6 Hawaii's Bureau of Conveyances.

7 10. The allegations regarding this usurious transaction were made by  
8 Hawaiian Riverbend LLC's 3-16-2016 Amendment to its' first Answer,  
9 Affirmative Defenses, Counterclaims and Third Party Claims made on 2-12-  
10 2016. As detailed more fully in this Declaration, all of these significant  
11 responsive pleadings give rise to many disputed facts, thereby resulting in  
12 Judge Kim's Order granting Summary Judgment to the Kai's while deliberately  
13 ignoring Hawaiian Riverbend's pleadings as further evidence of Judge Kim's  
14 bias against Hawaiian Riverbend, LLC and it's 100% owner and Managing  
15 Member Michael Miroyan who Judge Kim continues to deny the most basic  
16 rights to speak and be heard in the Hawaii's Third Circuit Court, a denial of  
17 Miroyan's Constitutional Due Process Rights as well as his foundational and  
18 fundamental First Amendment Right to Petition the Government for a redress  
19 of grievances.

20 11. I am worried about a repeat of circumstances as to what occurred  
21 with respect to the Tereick Civil Foreclosure Lawsuit regarding land identified  
22 as Tax Map Key Number (TMK) 6-8-002-052 - Tereick - 11 acres - Ag5 zoning  
23 = Agricultural 5 acre minimum zoning. Loan amount due = \$120,000. First  
24 mortgage due to Tereick. Value \$1.7 million. Equity of \$1.5 million was stolen  
25 from me due to the bias exhibited, first in allowing my Attorney Sulla to  
26 withdraw without substitute counsel in violation of the law governing such  
27 Motions including Judge Kim's permitting Sulla to withdraw without complying  
28 with the law's requirement as codified in Hawaii Rules of Civil Procedure Rule

1 25.1 requiring the signature and approval of the attorney withdrawal, something  
2 that was never done. As such, Judge Kim's Order permitting my Attorney  
3 Sulla's withdrawal was done in excess of this Court's Jurisdiction, thereby  
4 rendering Judge Kim's Order permitting Sulla to withdraw without complying  
5 with the law's mandate results in Judge Kim's 4-13-2018 Order to be Void on  
6 its' face, that is it merely requires an inspection of the judgment roll including  
7 the pleadings on file to determine its' invalidity. This Void Order of Judge Kim  
8 is subject to collateral attack in any Court at any time.

9 12. The Kai civil case before the Third Circuit also presided over by  
10 Judge Kim involves Tax Map Key (Tax Map Key) Number 6-8-002-053. The  
11 Kai civil case for foreclosure was filed in June of 2015 while Miroyan was  
12 incarcerated at Elmwood facility due to 2 ½ ounces of marijuana. Kai property  
13 is worth \$6 million. Debt of \$1.2 million that is usurious under the law and  
14 constitutes fraud upon the Court for having filed a First Amendment of  
15 Promissory Note that was fraudulently notarized that forms an essential  
16 document that the Court based its' Order Granting Foreclosure. Miroyan has  
17 sent a request to the Notary that he send Miroyan by 2-13-2022 a photocopy of  
18 the Notarial log book that was made that includes Miroyan's Right Thumbprint  
19 under California law. Since Miroyan has never met the Notary Quang Hang  
20 Hung, the existence of Miroyan's thumbprint in the Notary log book is a legal  
21 and factual impossibility. It only requires a short period of time for this fact to  
22 become manifest, thereby exposing the Notary and the Kai's for baving filed in  
23 the Recorder's Office and chain of title a forged document that constitutes a  
24 felony and thus establishes that the documents supporting foreclosure are  
25 subject to cancellation and a Court Order ordering that the First Amendment of  
26 Promissory Note be cancelled, stricken from public records and declared to be  
27 a forgery thereby rendering any Deed conveying Title to the Kai's to be Void  
28 resulting in a Void Foreclosure that necessitates criminal prosecution for

1 forgery and related crimes. Contrary to the \$540,000 Mortgage, the actual  
2 cash disbursed by the Kai's was \$360,000. Another \$20,000 was disbursed  
3 after the Kai's were in breach.

4 **12. DENIAL OF DUE PROCESS AND FAILURE OF CHEN'S OPPOSING**  
5 **COUNSEL AND THE COURT TO SERVE MIROYAN OF ANY**  
6 **DOCUMENTS IN THE CHEN CIVIL CASE, ALSO PRESIDED OVER**  
7 **BY JUDGE KIM**

8 A third civil case was filed in 2016 in Hawaii's Third Circuit Court bearing  
9 civil case number 3CC-16-1-00043K. Neither Miroyan nor Hawaiian Riverbed  
10 LLC were ever served with any of the pleadings, motions or Orders from the  
11 Court. Even though Judge Kim presided over the two other civil matters in the  
12 very same Court, namely the Tereick case and the Kai case, Judge Kim failed  
13 to intervene or inquire as to whether Miroyan or Hawaiian Riverbed LLC were  
14 even aware of the existence of any pleadings in this new civil case, nor did  
15 Judge Kim inquire as to why neither Miroyan or Hawaiian Riverbed LLC were  
16 participating in any of the Chen case's civil proceedings. This means that the  
17 Judge both on the record and off the record was essentially engaging in Ex  
18 Parte communications with Chen's counsel outside the presence of either  
19 Miroyan or Hawaiian Riverbed LLC that case law mandates Judicial recusal  
20 due to the perception of impropriety engaged in by the Judge. Please see the  
21 Memorandum of Points and Authorities in Support of Motion to Recuse for a  
22 discussion of the relevant case law on this very important issue of the law  
23 requiring disqualification and/or Recusal of a Judge that has engaged in illegal  
24 Ex Parte Communications mandating Judicial disqualification and/or recusal.

25 **13. CONCLUSION**

26 For the foregoing reasons and for the facts brought forth in this  
27 Declaration and supporting Exhibits, Defendant Michael Miroyan respectfully  
28 requests that this Court issue an Order disqualifying Judge Robert D.S. Kim  
from sitting as a judge in all cases involving Miroyan and/or Hawaiian  
Riverbend LLC.

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I declare under penalty of perjury of the laws of the State of Hawaii that  
the foregoing is true and correct.

Dated: January 30, 2022. Respectfully submitted,

  
\_\_\_\_\_  
Michael Miroyan  
In Propria Persona



## **Exhibit List**

- 1. 4-13-2018 Minutes of Court hearing in Tereick civil case**
- 2. Detailed List of Miroyan's successful acquisition of 13,767 acres for \$60,000,000 a deal that closed on 9-4-2005.**
- 3. Action By Written Consent of Sole Member and Manager of Hawaiian Riverbend, LLC dated 8-2-2018**
- 4. Memorandum Re: Assignment of Property Assets, also dated 8-2-2018 regarding conveyance from HRB, LLC to Mr. Michael Miroyan, 100% owner of the LLC's membership interests**
- 5.     1. E-mail dated 6-24-2019 sent from Miroyan to Judge Kim confirming Miroyan's filing of his Civil Rights lawsuit against him;**  
**2. Summons issued by Clerk of Court;**  
**3. Endorsed filed copy of first page of handwritten lawsuit;**  
**4. Typewritten copy of Civil Rights lawsuit filed in U.S. District Court for the Northern District of California - San Jose**
- 6. Promissory Note for \$300,000 dated 8-7-2013 with forged notarization submitted as page 45 of 81 page Kai Proof of Claim filed with U.S. Bankruptcy Court Northern District of California Case Number: 18-52001 filed on 2-4-2019**
- 7. First Amended Promissory Note dated 8-7-2013 with forged notarization recorded with Hawaii Bureau of Conveyances on 11-18-2013**
- 8. 12-7-2021 Judge Kim's Order Denying Defendant's Motion to add Miroyan as a Named Defendant**
- 9. Chen v. Hawaiian Riverbend Docket Entries 15 dated 12-18-2018 showing filing of Motion for Summary Judgment after U.S. Bankruptcy Court Automatic Stay imposed upon Miroyan's 11-26-2018 Bankruptcy Filing**

## **Exhibit 1**

## **Exhibit 1**

CIVIL TRIAL CALENDAR  
THIRD CIRCUIT  
THIRD DIVISION

DATE: FRIDAY, APRIL 13, 2018  
JUDGE: HONORABLE ROBERT D. S. KIM, JUDGE PRESIDING  
CLERK:  
REPORTER:  
BAILIFF/LAW CLERK:

-----PAGE

1

1:30 P.M.

3CC 14-1-00429K CORY TEREICK

VS.

HAWAIIAN RIVERBEND LLC

STEPHEN D WHITTAKER  
FOR CORY TEREICK

NOTICE AND MOTION TO WITHDRAW AS ATTORNEY OF  
RECORD FOR DEFENDANT HAWAIIAN RIVERBEND, LLC

CLERK - S. MITCHELL

APPEARANCES:

DEFENDANT COUNSEL - P. SULLA (BY PHONE)

COMMISSIONER - M. SCHLUETER

DIGITAL RECORDING CC3.18-69/ 2018-4-13/1:32-1:35

COURT: IF THE COURT GRANTS THIS MOTION, YOUR  
CLIENT IS UNABLE TO PARTICIPATE IN THIS CASE AS IT  
WOULD BE AN UNAUTHORIZED PRACTICE OF LAW

SULLA: UNDERSTOOD

COURT: MOTION GRANTED; IN THE ORDER, WANT IT  
SPECIFIC THAT IN GRANTING THE WITHDRAWAL AS  
COUNSEL, THAT THIS ENTITY, HAWAIIAN RIVERBEND LLC  
IS UNABLE TO REPRESENT ITSELF, OTHERWISE IT IS  
ENGAGED IN AN UNAUTHORIZED PRACTICE OF LAW,  
AND THE COURT WILL ONLY RECOGNIZE IT IF THEY HAVE  
SUBSTITUTE ATTORNEY.

SCHLUETER: NOTES FOR THE RECORD, MICHAEL  
MIROYAN WAS SERVED AT SARATOGA ADDRESS

COURT: HE IS NOT A PARTY, THE ENTITY IS; MR.  
SULLA TO PREPARE THE ORDER

CIVIL TRIAL CALENDAR  
THIRD CIRCUIT  
THIRD DIVISION

DATE: FRIDAY, APRIL 13, 2018  
JUDGE: HONORABLE ROBERT D. S. KIM, JUDGE PRESIDING  
CLERK:  
REPORTER:  
BAILIFF/LAW CLERK:

DATE: 04-13-2018 BY ORDER OF THE COURT

*Samantha A. Mitchell* PAGE 2  
CLERK

## **Exhibit 2**

## **Exhibit 2**



LINE PLAN	LOT	TMK	CNTY ZONING	DESCRIPTION	ACRES	TOTAL UNITS	1.ES 15'
<b>Unplanned - Above Queen K Highway</b>							
1653	3B	6-8-001-005	A-5	Parcel 4 Subd #2- Open Area- Makai Quarry	3049.89	810	91.1
1435	1	6-8-001-027	A-5	Waik. Pcl 4 Subdv. Kohala side of Waikoloa Rd Mauka of Hwy	733.84	147	22.1
<b>Subtotal</b>					<b>3783.03</b>	<b>757</b>	<b>113.</b>
<b>Village Multifamily</b>							
1378	8	6-8-003-032	RM 1.5	Waik. MF Unit II- Camp. Off DayCare Ctr, por Palmer GC	27.75	808	120.
1378	2	6-8-003-028	RM 1.5	Waik. MF Unit III-Kona side of loop rd-Multi Family	4.80	134	20.
1378	4	6-8-003-031	RM 1.5	Waik. MF Unit III-Kona side of loop rd-Multi Family	3.71	108	16.
1188	109	6-8-003-036	RM 1.5	Waik. Vlg. 1A-Along WVGCC 9th Fairway-Schuler Opt. 3rd Incr	3.28	95	14.
1378	3B	6-8-003-037	RM 1.5	Waik. MF Unit III-Kona side of loop rd-Multi Family	2.30	67	10.
<b>Subtotal</b>					<b>41.83</b>	<b>1208</b>	<b>181</b>
<b>Village Commercial</b>							
2242	5	6-8-003-040	CV-10	Waikoloa Comm'l Unit II- Below Waikoloa Highlands Office	23.21		
2242	4	6-8-003-015	CV-10	Waikoloa Comm'l Unit II- Below New Post Office	15.95		
2242	6	6-8-003-014	CV-10	Waikoloa Comm'l Unit II- Bwn. Waikoloa Rd. & Puu Maui St	4.91		
2242	3	6-8-003-018	CV-10	Waikoloa Comm'l Unit II- Kona Side of New Post Office	1.02		
<b>Subtotal</b>					<b>45.09</b>		
<b>Highlands Golf Estates</b>							
1172	2	6-8-002-016	RA-1A	Below Ranch Pcl & Above Pcl 4 (Portion) Highlands/ Residential	532.61	533	71
1172	2	6-8-002-016	O	Below Ranch Pcl & Above Pcl 4 (Portion) Highlands/ Palmer G.C.	198.97	N/A	
1878	5	6-8-003-082	O	Waik. MF Unit II- Camp. Off Day Care Ctr, por Palmer G.C.	29.61	N/A	
<b>Subtotal</b>					<b>761.19</b>	<b>533</b>	
<b>Unplanned Highlands</b>							
1172	7	6-8-002-017	A-5	Below Ranch Pcl & Above Pcl 4 (Portion) Urb. Resv Equate: Ranch Est.	2153.44	431	5
1172	2	6-8-002-016	A-5	Below Ranch Pcl & Above Pcl 4 (Portion)	1701.28	340	5
1172	2	6-8-002-016	A-5	Below Ranch Pcl & Above Pcl 4 (Portion) Highlands/ Palmer	10.87	2	1
1172	9	6-8-002-021	A-5	Below Ranch Pcl & Above Pcl 4 & Village Civic Center	31.32	6	1
<b>Subtotal</b>					<b>3896.92</b>	<b>779</b>	
<b>Ranchlands</b>							
1139	10	6-8-002-001	A-20	Ranch Parcel	1189.88	58	
1139	2	6-8-002-012	A-20	Ranch Parcel	1078.27	53	
1139	1	6-8-002-013	A-20	Ranch Parcel	802.83	40	
1139	4	6-8-002-010	A-20	Ranch Parcel	740.87	37	
1280	1	6-8-002-002	A-20	Ranch Parcel	851.89	33	
1139	8A	6-8-002-007	A-20	Ranch Parcel	400.04	20	
1139	5A	6-8-002-015	A-20	Ranch Parcel	542.63	17	
1139	5	6-8-002-018	A-5	Around Hawaii Bell Rd: Remnant	84.07	16	
<b>Subtotal</b>					<b>\$289.33</b>	<b>276</b>	<b>4</b>

## ZONING KEY:

U Urban  
 A Agriculture (X Acres/ Unit)  
 CONSV Conservation  
 RS Residential - Single Family  
 UE Urban Expansion  
 LD Low Density IND Industrial  
 O Open  
 UN Unplanned  
 CV Village Commercial  
 RA-1A Residential - 1 Acre  
 RM Multifamily (X,000 SF Lot)

**TOTAL 13,755 2,345**

## **Exhibit 3**

**Exhibit 3**

**ACTION BY WRITTEN CONSENT OF  
SOLE MEMBER AND MANAGER  
OF HAWAIIAN RIVERBEND, LLC**

The undersigned, being the sole member and manager (the "Member") of HAWAIIAN RIVERBEND, LLC, a Hawaii limited liability company (the "Company"), hereby consents to the following action in accordance with Hawaii Revised Statutes, Section 428-404(d).

WHEREAS, the Member has considered the financial and operational conditions of the Company's business;

WHEREAS, the Company's pending litigation status necessitates having legal representation in Court but that the Company cannot appear for itself in Court without having legal counsel authorized to practice law in the State of Hawaii representing Company;

WHEREAS, the Company lacks the financial means to hire legal counsel at this time;

WHEREAS, the Member desires to appear in Court on behalf of the Company but is unable to represent the Company in Court;

RESOLVED, THEREFORE, that in the business judgment of the Member after consideration of the alternatives available that it is in the best interests of the Company, its creditors, member and other interested parties that Company transfer, assign, and convey to Member its interests in the real property parcel owned by Company in Waikoloa Village, Hawaii described as TMYK 6-8-02-53 in consideration of the Member personally assuming all liabilities and obligations of Company, and Member agreeing to hereafter make all necessary appearances in Court relative to said land parcel; and it is

FURTHER RESOLVED, that the Company is hereby authorized to execute and file all grant deeds and other papers and documents, and to take any and all action which it deems necessary or proper to obtain these objectives; and it is

FURTHER RESOLVED, that the Company is authorized, empowered and directed to take any and all further action and to execute and deliver any and all such further instruments and documents, where necessary or appropriate in order to carry out the intent and accomplish the purposes of the resolutions adopted herein; and it is

RESOLVED FURTHER, that any actions taken by Member acting as Manager of Company prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed and approved as the acts and deeds of this Company.

IN WITNESS WHEREOF, the undersigned sole member and manager has executed this written consent this 2<sup>nd</sup> day of August, 2018.

8/2/18

  
MICHAEL MIROYAN

## **Exhibit 4**

## **Exhibit 4**

## Memorandum Re: Assignment of Property Assets

In consideration for the transfer of the assets of Hawaiian Riverbend, LLC (HR, LLC) to the 100% owner of the LLC's membership interests, Mr. Michael Miroyan, and based on the "action by written consent of Sole Member and Manager of Hawaiian Riverbend, LLC" on this same date August 2, 2018 proof of financial consideration for the transfer is offered as follows:

- 1) It was in November 2009, when Michael Miroyan settled, in his favor, his civil lawsuit brought against Waikoloa Mauka, LLC et al and received as his settlement this Waikoloa property of 31 acres originally TMK # 6-8-002-021.\*

In Nov. 2009, the property's value was \$1,500,000 and the escrow closing papers reflect that amount in its Net Sheet. In November 2009 this settlement was 100% Michael Miroyan's. That is irrefutable. Therefore, Miroyan received as his settlement this 31.3 acres valued at \$1.5 million which Miroyan conveyed to HR, LLC, without consideration and this \$1.5 million dollars is now credited back to Miroyan from HR, LLC through these conveyances.

- 2) The Salary/management fee of Michael Miroyan, of \$3500 per month has gone unpaid even before the July 2012 Kai's breach of the Membership Purchase Agreement (MPA) signed in May 2010. The Kai's, in a flagrant breach of their fiduciary duty to fellow member Michael Miroyan, quit funding the project in a breach of their contractual duty. Unbeknownst to Miroyan, the Kai's had hired two lawyers in an effort to take the asset from Miroyan, the one who had invited the Kai's to join him in the venture for the sole purpose of him being able to pay back to the Kai's some \$400,000 in personal notes from 2006. Miroyan's salary owed to this date is in excess of \$378,000 and is financial consideration #2 for the transfer of the assets.
- 3) Miroyan personally borrowed \$80,000 in 2016 and 2017 which he loaned to HR LLC for project and to which he is entitled to be reimbursed and is financial consideration #3.

**Conclusion:** Therefore, the total consideration owed to Miroyan by HR LLC is \$1,958,000.

\*Note: In Hawaii TMK (Tax Map Key) is the equivalent of APN (Assessors Parcel Number). It was on Feb. 13, 2013 when Sidney Fuke, Planning Consultant and Miroyan, as its Manager, received County Council approval of the 3 lot subdivision. The original 31 Acre parcel was subdivided into 3 and one of the three, #53 was simultaneously rezoned to Commercial CV-20.

TMK #6-8-002-021 = 5.95 acres (retained the original TMK)

TMK #6-8-002-052 = 10.75 acres (subject of separate foreclosure on appeal)

TMK #6-8-002-053 = 14.66 acres rezoned commercial and the subject of the foreclosure in this BK case #18-52601



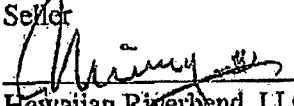
It is #53, the 14.66 acres zoned commercial and worth \$6 million, that is the subject of the illegal and fraudulent foreclosure action brought by the Kai's who strive to strip this \$6 million dollar property from Miroyan for \$900,000 owed but which they fraudulently claim as \$1,247,000 owed. There was never supposed to be a foreclosure because Miroyan increased the notes by \$650,000 without the Kai's putting up 10 cents. Therefore, the Kai's can show no money trail for the increase of their original \$540,000 1<sup>st</sup> mortgage turning into \$900,000.

This forged and fraudulent mortgage where the notarization of Miroyan's Aug. 8, 2013 signature was forged was then sent, again surreptitiously, in the Title Guarantee and Trust's overnight pouch to the Bureau of Conveyances, Honolulu Hawaii, on Nov. 18, 2013 to be recorded!! And it was recorded! And all of this was done without Miroyan's knowledge or consent. And get this... when was the \$900,000 on the Kai's fraudulent first mortgage all due and payable? Eleven days later!!! On Nov. 30, 2013, the \$900,000 was all due and payable! The fraudulent mortgage was secretly recorded only 11 days earlier on November 18, 2013 and is the subject of this foreclosure.

The Kai's, fellow members of the HR, LLC and 1<sup>st</sup> mortgage holder's simultaneously breached not only the MPA and quit funding but they breached their fiduciary duty to Miroyan, a fellow member of the LLC when they surreptitiously hired two lawyers, Michael Carrol and Matthew Shannon, to advise them on how to steal the property they had not earned from Miroyan, who had earned its ownership.

Date: 8-2-18

Seller

  
Hawaiian Riverbend, LLC by  
its Manager and sole member  
Michael H. Miroyan owner  
of 100% of the membership  
interests of HR, LLC

Date: 8-2-18

Buyer

  
Michael H. Miroyan

## **Exhibit 5**

## **Exhibit 5**

**June 24 , 2019**

**Dear Judge Kim ....**

**you're being sued by Michael Miroyan. Enclosed herewith is the lawsuit and The summons will follow in the next email . I would appreciate you accepting service...But it doesn't matter the attorney general for the state of Hawaii has already received these documents....And there are protocols in place for you to accept service via US mail.**

**And Because of the filing of this adversarial complaint against you for your illegal acts, civil rights violations and fraud , Just to name a few, and because it is an ongoing litigation it would be wholly inappropriate for you to lash out and do me anymore damage from your bench as you have no right to rule in this case any longer.**

**The good Lord and His angels know what damage you have done and so do I ....It is 3:21 PM Hawaii standard time on June 24 and you cannot make any ruling on this matter until after 4:00 PM and you've been notified that you're being sued by me so any ruling that you do detrimental to me , will be void and will be reviewed by somebody else....as if you haven't done enough damage already by ignoring Actual and factual sales data when is put it right under your nose.**

That which you stole ...was not yours; nor did you earn it.  
its going to have to be returned hopefully otherwise there  
is no justice whatsoever in Hawaii and that will be plain  
for all to see.

**Michael Miroyan**

UNITED STATES DISTRICT COURT  
for the

Michael MIROYAN  
Plaintiff(s) *in propria persona*  
v.

Civil Action No. *19cv 03626 NC*

Robert D.S. Kim et al  
Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

*Robert D.S. Kim  
c/o 3 Circuit Court  
79-1020 Haukapile St.  
Kealahou, Hawaii  
96750-7922*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

*MICHAEL MIROYAN  
P.O. Box 3181  
Saratoga, Ca. 95070-1181*

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: JUN 21 2019

CLERK OF COURT  
SUSAN Y. SOONG

*[Signature]*  
Signature of Clerk or Deputy Clerk



E-FILING

ORIGINAL FILED

JUN 21 2019

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
SAN JOSE OFFICE

1 MICHAEL MIROYAN

2 P.O. Box 3181

3 SARATOGA, CA. 95070-1181

4 Tel: (408) 913-3123

5 E-mail: MAC8881@mc.com

6 Plaintiff in propria persona

C 19 03626

7 United States District Court  
8 Northern District of California - San Jose NC

9  
10 MICHAEL MIROYAN, INDIVIDUALLY,  
11 AND AS MANAGER AND OWNER OF  
12 100% OF THE MEMBERSHIP INTERESTS  
13 OF HAWAIIAN RIVERBEND, LLC AND  
14 ON BEHALF OF THE GENERAL PUBLIC  
15 ACTING AS A PRIVATE ATTORNEY GENERAL,

16 Plaintiff

17 VS. ~~THE~~ KENNETH KAI

18 Robert D.S. Kim

19 ~~Kenneth Kai~~ Matthew SHANNON

20 WAYNE

21 MICHAEL CARROLL, QUANG HANG

22 HANG, DAVID LUCAS, MICHAEL

23 SCHUSTER, ANDREW KENNEDY,

24 PAUL SALLA JR., AND TITLE GUARANTEE

25 AND TRUST TITLE CO., AND DOES 1-100

26 inclusive.

27 Defendants

28 7.2) Tortious Interference w/ bona fide business

7.3) Breach of contract; Breach of fiduciary duty

for violation of rights; 10) Declaratory

Permanent Injunction; 12) request for Counsel

CASE No:

COMPLAINT in Law & Equity  
for DAMAGES, declaratory  
AND INJUNCTIVE RELIEF

FOR:  
1) VIOLATION AND DEPRIVATION  
OF CIVIL AND CONSTITUTIONAL RIGHTS  
(BIVENS ACTION)

2) VIOLATION OF ELDER ADULT  
ABUSE CALIFORNIA LAW

3) VIOLATION OF CALIF. HAWAII  
CONSTITUTIONAL LAW

4) Denial of Access to  
the Courts

5) Deprivation of due  
Process Rights

6) CONSPIRACY TO DEPRIVE  
CIVIL RIGHTS

7) Denial of Equal protection  
under the Law

8) FRAUD, CONSPIRACY to  
commit Fraud, Tort claims

Relief by way of Process /TRO/ Prelim &  
Ex parte Request

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

1 FROM THE DESK OF MICHAEL MIROYAN

2 Michael Miroyan

3 P.O. Box 3181

4 Saratoga, CA. 95070 - 1181

5 Tel: (408) 913-3123

6 E-mail: mac8881@me.com

7 Plaintiff in Propria Persona

8 United States District Court

9 Northern District of California - San Jose

10 MICHAEL MIROYAN, individually, and as  
11 manager and owner of 100% of the membership  
12 interests of Hawaiian Riverbend, LLC and on behalf  
13 of the general public acting as a Private Attorney  
14 General,

15 Plaintiff,

16 vs.

17 ROBERT D.S. KIM, TAE KAI, KENNETH KAI,  
18 MATTHEW SHANNON, MICHAEL CARROLL,  
19 WAYNE SILVER, QUANG HUNG HANG,  
20 DAVID LUCAS, MICHAEL SCHLUETER,  
21 ANDREW KENNEDY, PAUL SULLA JR., and  
22 TITLE GUARANTEE AND TRUST TITLE CO.,  
23 and DOES 1 through 100, inclusive,

24 Defendants.

Case No. 19-03626-NC

COMPLAINT IN LAW & EQUITY  
FOR DAMAGES DECLARATORY  
AND INJUNCTIVE RELIEF:

- (1) Violation and deprivation of civil and constitutional rights (Bivens Action and 42 U.S.C. 1983)
- (2) Violation of Elder Adult Abuse California Law
- (3) Violation of Calif. and Hawaii Constitutional Law
- (4) Denial of Access to the Courts
- (5) Deprivation of Due Process Rights
- (6) Conspiracy to Deprive Civil Rights
- (7) Denial of Equal Protection under the law
- (8) Tortuous Interference with bona fide business practices
- (9) Breach of contract; breach of fiduciary duty
- (10) Fraud; conspiracy to commit fraud
- (11) Tort Claims for violation of rights
- (12) Declaratory Relief
- (13) Stay of Proceedings/ TRO/ preliminary and permanent injunction
- (12) Request for Counsel

[Jury Trial Requested]

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

Pg. 1

Exhibit 5

1 Plaintiff Michael Miroyan, individually and on behalf of the General Public, acting as a  
2 Private Attorney General alleges:

3 (1) Plaintiff Michael Miroyan is an individual, 67 years of age and currently resides in Santa  
4 Clara County, Ca where he has lived since 1957. He was raised in Saratoga, Ca. As the first of 3  
5 boys raised by Bernita and Vartkes Miroyan, a Calif. licensed attorney for over 30 years. Michael  
6 did well in school, was a likeable fellow and was elected student body president of the 1,200  
7 students at Saratoga High School 1969-1970. He also achieved the Rank of Eagle Scout, was  
8 President of the Key Club, Varsity Letters in soccer, tennis, wrestling, and went to college at  
9 Univ. of California at Santa Barbara for 1 year and then transferred to Stanford University for his  
10 undergraduate education in 1971, majoring in Political Science. Michael Miroyan made some  
11 good choices and some poor choices and then in 1998 at the age of 46 and after being a realtor  
12 associate off and on for 24 years, he started his career as a real estate developer. (See exhibit 'A'  
13 Resume of Michael Miroyan)

14 Between 1998 – 2007 when the real estate market took a violent turn for the worse... the  
15 worst recession in 40 years...in those 9 years, Michael Miroyan completed 11 (eleven)  
16 subdivisions, 421 residential units and over \$200 million dollars in constructions loans and jobs  
17 for the community – all based on and because of his guts, his saavy, his initiative, persistence,  
18 and skills in real estate. Quite an accomplishment by a man who began at age 46 and finished at  
19 age 55. Michael Miroyan has always concentrated on providing a significant public benefit and  
20 has earned all his properties and income.

21 In July 2005, Miroyan landed his biggest acquisition of his life when he bought 13,767  
22 acres from Waikoloa Cattle Co. & Waikoloa Development Co. for \$60 million dollars. Michael  
23 Miroyan handled all the negotiations with the seller himself and at the end of the day he was the  
24 first and only one on the contract and overnight that purchase made Michael Miroyan and his  
25 Ukranian partners the 5<sup>th</sup> largest property owner in the state of Hawaii.

26 In September 2005, MAI appraiser Hallstrom appraised the 13,767 acres conservatively at  
27 \$164 million. \$104 million more than what he paid for the property and Michael Miroyan's skills  
28 at land acquisition and his business acumen were in plain sight for all to see. He had made his

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

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1 partners and himself \$104 million in Sept. 2005 on a \$60 million purchase.

2 Miroyan then sold the Waikoloa Village properties in 2006 on behalf of the partnership and he  
3 raised \$252 million in offers for the 800 acres in the Village...one offer of \$100 million from Pacific  
4 Century Group is attached here (Exhibit 'B').

5 For anyone to portray Michael Miroyan other than an astute, saavy, and honorable businessman,  
6 is an absolute lie. None of the people involved in this case - No One - has done what Miroyan has  
7 done. They have not brought \$60 million cash to the Big Island; nor received \$100 million dollar  
8 offers - none of them have Miroyan's land acquisition skills nor his vision or his guts and all they  
9 can do is make or take the money off of his creations. Miroyan is a river to his associates and even  
10 his enemies - greedy, pathetic enemies who make money off his efforts!

11 "When you drink from the well, remember the man who built it!" Chinese proverb.

12 This case is about greed and the extent to which people will go to get their hands on money, lots  
13 of money, Michael Miroyan's money - his LAND - that he earned and that which they conspire to  
14 steal.

15 Miroyan had to sue his business partners in 2008 because they weren't honoring their  
16 agreements. In 2009, Miroyan settled and received 31.3 acres in Waikoloa Village as the majority of  
17 his settlement TMK# 6-8-02-21..

18 The property in November 2009 went into the name of his wholly owned Hawaiian Riverbend,  
19 LLC, formed by his California attorney, Terry Root.

20 Miroyan needed \$300,000 to pay his ex-partners as part of the settlement and invited the  
21 KAI's, TAB & KENNETH to participate with the hope and belief Miroyan could pay back some  
22 \$400,000 in personal unsecured notes that Miroyan owed the Kai's and because of the drastic market  
23 change in 2007, was heretofore unable to do.

24 A deal was struck! Miroyan gave the Kai's 50% membership interests to go with his now 50%  
25 of HR, LLC. and he gave them the 1<sup>st</sup> lien position of lender also. Kai's put up \$360,000 and Miroyan  
26 gave them a \$540,000 mortgage 50% return (\$180,000) all due in 3 years, May 2013. As part of the  
27 contractual agreement, a membership purchase agreement (MPA) was prepared and duly signed  
28 along with the operating agreement, etc.

1 Miroyan was to be Manager with a \$3,500/month salary. He & planning consultant, Sidney  
2 Fuke, were to change the zoning to commercial on 14.66 acres and subdivide the 31.3 acres into 3  
3 parcels.

4 The Kai's were to pay bills when asked by the MGR for the accounting, salaries, property taxes,  
5 subcontractors etc. upon the MGR's issuing of a "capital call." Escrow closed in May 2010. The  
6 Kai's learned of this transaction thru Michael Miroyan only and they thanked him by stabbing him in  
7 the back and little did he know because they lied so good.

8 By the Spring of 2012 the Kai's had surreptitiously hired attorneys MICHAEL CARROLL and  
9 MATTHEW SHANNON to assist them in the stealing of the commercial property about to be  
10 rezoned.

11 "No good deed goes unpunished." The adage finds particular relevance here as the greedy  
12 KAI's breached their fiduciary duty to Miroyan their fellow member of the LLC with a clear and  
13 agreed upon goal in sight by hiring lawyers without disclosing it to Miroyan and then the four of  
14 them conspiring to steal the property which was set to go to the Planning Commission for approval  
15 in November 2012.

16 Observe the tortuous interference by the Kai's and their hidden snake attorney as the Kai's quit  
17 all funding in July 2012 and go into a flagrant breach of the MPA. This breach of contract is  
18 designed to sour and greatly slow down the project. They will kill it slowly. Miroyan has little  
19 savings and without his salary will soon be financially strapped as he went all in on the project to be  
20 able to pay back Kai's rather than getting more money from his settlement with his ex-partners.  
21 Never in his wildest dreams could he conceive the Kai's would backstab him when he is paying back  
22 \$400,000 in unsecured notes that most others would have walked away from...

23 Miroyan issues cap calls in July and in September 2012 but the Kai's don't fund, they want to  
24 be "lender only" because, Miroyan later found out - they couldn't foreclose on themselves, so they  
25 had to come out of the LLC and to this end with lies and fraud and breaches and obfuscated trickery.  
26 they hoodwinked Miroyan into letting them become "Lender only." Miroyan raised their mortgage by  
27 \$650,000 without the Kai's putting 10 cents!!

28 There is no money trail for the increase in mortgage. This is lender fraud and conspiracy to

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

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1 defraud and interference of Miroyan's business advantage and these lawyers are coaching and  
2 breaking the law from Spring 2012 until January 2015 when they finally surface.

3 QUANG HUNG HANG is a California notary who the Kai's and/or their attorneys paid to  
4 fraudulently notarize Miroyan's signature on the \$900,000 note he signed when he believed on August  
5 7<sup>th</sup>, 2013 that they were finally in agreement. Quang Hung's forgery of the notarization of Miroyan's  
6 signature is fraud; it's illegal and renders the amended mortgage and note as an illegal instrument and  
7 it is therefore void. With the purchase of Quang's loyalties to the fraud scheme there are now 5 co-  
8 conspirators.

9 Miroyan didn't realize any of this at the time- he knew nothing. When he signed on August 7<sup>th</sup>,  
10 2013 he specifically did not notarize because the pay back date had not been agreed upon. The second  
11 mortgage he did notarize and sign because it was due in 3 years with 2 subordination clauses in it (see  
12 exhibit 'C'). But the \$900,000 he did not notarize.

13 (2) The main Causes of action in this lawsuit is two-pronged. It is against the Kai Family Trust and  
14 the 2 trustees Ken and Tae for fraud, for breach of contract, breach of fiduciary duty, for interference  
15 of Miroyan's bona fide business practices, for taking advantage of Miroyan's business advantage, for  
16 not releasing the mortgages after subdivision approval which caused Miroyan irreparable damage and  
17 to lose the lawsuit which Miroyan went to trial on where he lost 88 acres and \$1.5 million dollars and  
18 the second prong is against the Hon. Robert D.S. Kim for 1983 Civil Rights violations and 42 USC  
19 1983 civil rights violations.

20 (3) Defendant Tae Kai and Defendant Ken Kai are both living here in Santa Clara County and have  
21 done so for the last 30 years just like Plaintiff Miroyan. All deals were discussed and agreed upon in  
22 Santa Clara County. All contracts were signed in Santa Clara County, all monies changed hand in  
23 Santa Clara County and all parties live in Santa Clara County including the notary Quang Hung Hang.

24 (4) Therefore Venue is proper in Santa Clara County.

25 (5) At all times, Matthew Shannon and Michael Carroll worked together for the Kai's since 2012 and  
26 both work in Honolulu and their conduct is violative of the oaths to the Hawaii & U.S. Constitution.  
27 Both have joined the conspiracy to defraud Miroyan and both have committed overt acts in  
28 furtherance of their dirty goal, the theft of an elderly man's land, which is elder abuse.

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

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1 (6) Both Dr. Ken and Tae Kai as well as both of their miscreant attorneys Shannon and Carroll are  
2 being sued in their individual capacity also, for all of them knowingly and willingly breaking the law  
3 and more all for their love of someone else's money.

4 (7) Notary Quang has yet to perjure himself but Miroyan is sure he will and for his forgery on the  
5 notarization of Miroyan's signature he should pay dearly for the note, amended mortgage  
6 would not have been recorded without it.

7 (8) Title Guarantee and Trust is complicit in this fraud because one of their employees took over  
8 Miroyan's escrow and gave it to the Kai's side and put the amended mortgage in their overnight pouch  
9 all without Miroyan's consent or knowledge and while his back was turned embroiled in the lawsuit  
10 over his SJ ranch. The amended mortgage was signed on August 7<sup>th</sup>, 2013. It was recorded November  
11 18, 2013...it was recorded 101 days after Miroyan signed!! Why? Why wait so long? Because that's  
12 when Miroyan was embroiled in trial. Sneaky, Sneaky and dirty -- are the Kai's and their greaseball  
13 attorneys. The amended Mortgage is void -- it's an illegal instrument.

14 (8) Yet Judge Robert Kim has done everything he can to prevent Miroyan from even having access to  
15 the Courts, let alone a fair say in court. The litany of allegations against Robert Kim, whom Miroyan is  
16 suing in his individual as well as official capacity cannot all be delineated here but will be in the first  
17 amended complaint. But here are a few of the standout Civil Rights violations by this Judge who under  
18 the color of law and authority denies Miroyan even the most miniscule of due process rights nor equal  
19 protection under the Bill of Rights. Kim doesn't curtail free speech -- Judge Kim obliterates it!! And  
20 does not allow Miroyan access to petition the Court for his grievances. Judge Kim has joined the  
21 conspiracy to defraud Miroyan of the property he earned and he must now be removed from case#15-  
22 0164K due to this federal lawsuit against him.

23 (9) Defendant Robert D.S. Kim has purposely denied Miroyan access to the court. Defendant Kim  
24 knows that Miroyan has been "blacklisted" which is tantamount to being a "leper" and such Miroyan  
25 has been banished; ex-communicated and no one will touch him or his case. This coupled with  
26 Miroyan's financial woes makes it impossible to hire an attorney and yet that is exactly what Defendant  
27 Kim demands!! It's so much easier to win when the opposing side has no voice! These are bedrock  
28 Constitutional rights all Americans enjoy. It's what makes our country great and Defendant Kim will

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

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1 have none of it.

2 (10) Who has blacklisted Miroyan? That scary word from the witch hunt McCarthy Hearings 70 years  
3 ago from the 1950's. Even then McCarthy stood and said it was he who was doing the enquiring re:  
4 Russian Spies. But here it is but a shadow – no one is talking to Miroyan but Miroyan believes he  
5 knows who is doing it – this banishment and exile because it has to be one of the group that covets the  
6 14 acres of commercial that is the subject of the Hawaii foreclosure case #15-0164K, Kai vs. HR, LLC  
7 (Miroyan). The Kai's are trying to steal 14 acres of CV-20 Commercial zoning worth \$6 million for the  
8 \$1 million they are owed supposedly and that is their goal. The Kai's are in no danger of losing their  
9 secured 1<sup>st</sup> mortgage plus interest, but they want more... bring on the forgery by the notary – observe  
10 his date where he lies and says Miroyan appeared before him on August 10<sup>th</sup>, 2013! Miroyan was  
11 negotiating with the Kai's for 90 days after that until November 2013 NOT KNOWING the Kai's had  
12 fraudulently had his signature notarized and had no intent of making a deal with Miroyan – they waited  
13 and waited and strung Miroyan out and then bam! Let the guillotine fall when Miroyan was  
14 preoccupied with his trial.

15 (11) Note: the amended mortgage for \$900,000 filed via TG & T overnighted pouch to the Bureau of  
16 Conveyances on November 18<sup>th</sup>, 2013 was all due and payable, \$900,00 all due in eleven (11) days on  
17 December 1, 2013. Now do really expect anyone to believe Miroyan recorded and agreed to \$900,00  
18 payoff in 11 days??

19 These are the obstacles when you cheat and lie and swindle... there's always glitches (See exhibit  
20 'D' re: First amendment of Promissory Note)

21 (12) Miroyan has filed a police report with San Jose Police Fraud Department re: Notary Q. Hung Hang  
22 and also with the Secretary of State's office. (See Exhibit 'D' Police Report)

23 (13) Judge and Defendant Robert Kim allowed HR's attorney Paul Sulla Jr. to withdraw in April  
24 2018 at a hearing Miroyan knew nothing about, Kim likes to hold Court without Miroyan, the true  
25 owner being there or even being aware of their crooked shenanigans. Defendant Kim allowed Sulla to  
26 withdraw knowing the LLC would have no voice, less than 60 days before the Court confirmation  
27 hearing on companion case Tereick v. HR, LLC #14-0429K and the result was, of course, devastating.  
28 Miroyan lost a \$1.9 million eleven (11) acre parcel for \$120,000 and got not a dime out of it.

1 (14) Defendant Kim should not let the LLC get defenseless like this and the order he signed drawn up  
2 by Sulla says in compliance with Rule 25. That's false. It's a lie. Rule 25 calls for the LLC's manager  
3 Miroyan to have signed the order also saying he is ok with it (See exhibit 'B' order)

4 Miroyan never knew it was going on because Sulla was working against his own client HR  
5 & Miroyan, Defendant Kim was leading the lopsided street mugging of Miroyan and his hard-earned  
6 assets.

7 (15) Faced with this thievery in broad daylight and the ignoring of a \$1.5 million sale directly across  
8 the street from Miroyan's HR property was outrageous, because Defendant Judge Kim should not have  
9 ignored the facts of this sale. But Defendant Kim did and Defendant Kim adopted the fraudulent BPO  
10 of crooked real estate Broker DAVID LUCAS for \$240,000 and ignored the fact of the April 24<sup>th</sup>, 2018  
11 all cash sale of \$1.5 million which showed a huge disparity on the theft of Miroyan's land for an  
12 inferior property than HR/mine.

13 (16) Andrew Kennedy & Michael Schlueter are crooked commissioners in on the scam.

14 (17) Wayne Silver has lied several times in federal BK Court while advancing the crooked agenda of  
15 Kai, Shannon, Carroll, Hang, et. al.

16 (19) I reserve the right to amend this complaint as the evidence unfolds or as I care to amend.  
17  
18  
19

20 Respectfully Submitted,

21  
22 6/21/19 San Jose, Ca.

23 \_\_\_\_\_  
24 M. Miroyan  
25  
26  
27  
28

CIVIL RIGHTS COMPLAINT FOR DAMAGES, DECLARATORY & INJUNCTIVE RELIEF

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**Exhibit 6**

**Exhibit 6**

[Promissory Note dated August 7, 2013]



**PROMISSORY NOTE**

US \$300,000.00

San Jose, California  
August 7, 2013

FOR VALUE RECEIVED, the undersigned, HAWAIIAN RIVERBEND, LLC, a Hawaii limited liability company ("Maker"), promises to pay to the order of KENNETH Y. KAI and TAE K. KAI, Trustees, of the Kai Family 1998 Trust dated October 5, 1998 ("Holder"), the principal sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) with interest thereon from August 7, 2013, computed on the principal balance from time to time outstanding at the applicable interest rate determined as set forth below.

**Interest.** The interest payable under this Note shall be at the rate of FIVE PERCENT (5.00%) per annum. Interest shall be calculated on the basis of a three hundred sixty-five (365) day year for actual days elapsed.

**Balloon Payment; Maturity Date.** Maker is not required to make payments of principal or interest until the Maturity Date. All principal outstanding under this Note, any accrued unpaid interest, and all fees, charges and other sums payable to the Holder shall be due and payable on August 6, 2016 (the "Maturity Date"), unless sooner due as provided in this Note. A single payment, called a "balloon payment", equal to the unpaid part of the principal plus any interest and other charges then due, must be paid by Maker on the Maturity Date.

**Application of Payments.** All payments on this Note shall be made at P.O. Box 3136, San Jose, California 95156, or to such other place as the holder of this Note may designate from time to time. All payments on this Note shall be payable only in lawful money of the United States of America. Except in the case of an election to the contrary by Holder in the event of a default, and to the extent permitted by law, all payments will be applied first to charges, then to interest, and then to principal.

**Prepayments.** The Maker shall have the privilege of making prepayments on the accrued interest and/or the principal balance outstanding under this Note, on any date without a prepayment penalty. Notwithstanding anything to the contrary herein, if Maker prepays all or a portion of the principal balance outstanding under this Note, the principal balance outstanding under this Note shall be reduced by the pro rata portion of the prepaid interest that was prepaid but not yet accrued as of the date of such principal prepayment.

**Default; Acceleration.** If the Maker shall default in the payment of principal, interest or other fees or charges when due under this Note, or if the Maker shall default in the performance of or compliance with any term, covenant, condition or provision required to be performed or complied with by the Maker under that certain Real Property Mortgage executed by Maker and Holder concurrently herewith or security instrument referred to therein (such other agreements or instruments being hereinafter called the "Loan Documents") and such default shall not have been remedied during the period the Maker is required to remedy such default, then, and in any such event, the Holder shall have the option to declare the unpaid principal sum of this Note

**Promissory Note**

Page 1 of 3

ImageDB:2346633.4

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Exhibit 5

together with all charges and interest accrued thereon to be immediately due and payable, and such principal sum, charges, and interest shall thereupon become and be due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived. Notwithstanding anything to the contrary herein, upon any default by Maker, Holder shall provide to Maker a notice of such default and Maker shall have sixty (60) days from such notice to cure such default.

**Attorneys' Fees.** The Maker promises to pay the Holder's reasonable attorneys' fees and such expenses as are incurred to induce or compel the payment of this Note or any portion of the indebtedness evidenced hereby, whether suit is brought hereon or not.

**Waiver.** Except as otherwise provided herein, the Maker, endorsers and guarantors hereof and all others who may become liable for any part of this obligation severally waive presentment, protest, demand and notice of protest, demand, dishonor and nonpayment of this Note and consent to any number of renewals or extensions of the time of payment hereof and to any release of parties obligated hereunder or forbearance in the enforcement hereof.

**No Oral Waiver, Modification or Cancellation.** No provision in this Note may be waived, modified or cancelled orally, but only by an agreement in writing and signed by the party against whom enforcement of any waiver, modification, discharge or cancellation is sought.

**Governing Law.** This Note shall be governed by and construed according to the laws of the State of Hawaii.

**Limitations on Interest.** Notwithstanding any provision to the contrary contained in the Loan Documents, the rate and amount of interest which the Maker shall be required to pay to the Holder shall in no event, contingency or circumstance exceed the maximum rate or amount limitation, if any, imposed by applicable law. If, from any circumstance whatsoever, performance by the Maker of any obligation under the Loan Documents at the time performance shall be due (including, without limiting the generality of the foregoing, the payment of any fee, charge or expense paid or incurred by the Maker which shall be held to be interest), shall involve transcending the limits of validity prescribed by law, if any, then, automatically, such obligation to be performed shall be reduced to the limit of such validity prescribed by applicable law. If, notwithstanding the foregoing limitations, any excess interest shall at the maturity of the Note be determined to have been received, the same shall be deemed to have been held as additional security. The foregoing provisions shall never be superseded or waived and shall control every other provision of all agreements between the Holder and the Maker.

**Notices.** Any notice which a party is required or may desire to give the other under this Note or the Loan Documents shall be in writing and shall be sent by (a) personal delivery, (b) mail (either (i) by United States registered or certified mail, return receipt requested, postage prepaid, or (ii) by Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery), (c) facsimile transmission with telephonic confirmation of receipt, or (d) e-mail with telephonic confirmation of receipt, addressed in the applicable manner as

**Promissory Note**

Page 2 of 3

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described below (subject to the right of a party to designate a different address for itself by notice similarly given).

To Holder: Kenneth Y. Kai and Tae K. Kai, Trustees  
P.O. Box 3136  
San Jose, CA 95156

To Maker: Hawaiian Riverbend, LLC  
Attn: Michael Miroyan  
P.O. Box 3181  
Saratoga, CA 95070

Any notice so given by mail, facsimile transmission, or e-mail shall be deemed to have been given as of the date of delivery (whether accepted or refused) established by U.S. Post Office return receipt, the overnight carrier's proof of delivery, or telephonic confirmation of receipt as the case may be. Any such notice given in any other manner shall be deemed given upon actual receipt of the same by the party to whom the same is to be given. Any party may give notice by more than one method described in this section.

**Parties in Interest.** The Holder shall have the right to assign the Holder's interest in this Note to any subsequent Holder or Holders of this Note. The Maker shall not assign the Maker's interest in this Note without the prior written consent of the Holder. All of the terms and provisions of this Note shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective personal representatives, heirs, successors and assigns, whether or not hereinabove so expressed. The use of any gender shall include all genders.

**Severability.** If any provision of this Note shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof.

**Paragraph Headings.** The headings of the paragraphs herein are for convenience and reference only and shall not be considered as defining or limiting in any way the scope or intent of any provision of this Note.

[Signature appears on next page.]

Promissory Note

Page 3 of 3

ImageDB: 23466334 Case 18-52601 Claim 10-1 Filed 02/04/19 Desc Main Document Page 48 of 81

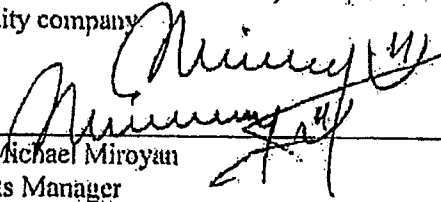
IN WITNESS WHEREOF, Maker has caused this Note to be duly executed.

MAKER:

HAWAIIAN RIVERBEND, LLC, a Hawaii limited  
liability company

8/8/13  
8/7/13

By

  
Michael Miroyan  
Its Manager

Promissory Note

Page 4 of 3

ImageDB:21466334

Case 18-52601 Claim 10-1 Filed 02/04/19 Desc Main Document Page 49 of 81

STATE OF CALIFORNIA

COUNTY OF Santa Clara

On August 8, 2013 before me, Quang Hung Hong, Notary Public  
(insert name and title of the officer)

personally appeared MICHAEL MIROYAN, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)

**DESCRIPTION OF THE ATTACHED DOCUMENT**

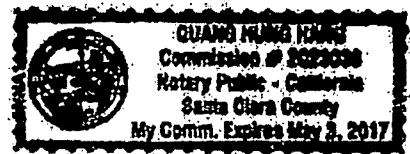
Promissory Note  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages: 4

Document Date: August 7, 2013

(Additional Information)



**CAPACITY CLAIMED BY SIGNER**

Trustee(s)

Attorney-in-Fact

Other

Official Records State of Hawaii Bureau of Conveyances

# Exhibit 7

**Date of Record:** 11 - 18 - 2013  
**Document #:** A-50700518  
**Description:** First Amendment of  
Promissory Note  
dated 8-8-2013 Re:  
Note dated 5-3-2010  
\* Forged Notarization \*

**Cross-Ref Docs:**

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7/1/11



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

November 18, 2013 8:01 AM

Doc No(s) A-50700518



1 1/2 CGG  
B-32373220

/s/ NICKI ANN THOMPSON  
REGISTRAR

Land Court System

Regular System

After Recordation Return By: (✓) Mail ( ) Deliver

MR. & MRS. KENNETH KAI  
P.O. BOX 3136  
SAN JOSE, CA 95156

TG ACCOM 46661EQ

①

TITLE GUARANTY OF HAWAII HAS  
FILED THIS DOCUMENT FOR RECORD  
AS AN ACCOMMODATION ONLY. THIS  
DOCUMENT HAS NOT BEEN  
REVIEWED OR IN ANY WAY EXAMINED  
AS TO ITS EFFECT ON REAL PROPERTY.

RLS

CAC 15 pgs.

FIRST AMENDMENT OF PROMISSORY NOTE

**FIRST AMENDMENT OF PROMISSORY NOTE**

THIS FIRST AMENDMENT OF PROMISSORY NOTE ("Agreement") is made on Aug 8, 2013, 2013, but is effective as of March 1, 2013 ("Effective Date"), by and among HAWAIIAN RIVERBEND, LLC, a Hawaii limited liability company, whose post office address is P.O. Box 3181, Saratoga, California 95070 ("Borrower"), and KENNETH Y. KAI and TAE K. KAI, Trustees, of the Kai Family 1998 Trust dated October 5, 1998, whose mailing address is P.O. Box 3136, San Jose, California 95156 (singularly and collectively, "Lender").

**I. BACKGROUND.**

A. The Lender made a term loan (the "Loan") to the Borrower in the original principal amount of FIVE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (US \$540,000.00), as evidenced by that certain Promissory Note dated May 3, 2010 (the "Original Note") executed by the Borrower in favor of the Lender. Capitalized but undefined terms in this Agreement shall have the meanings ascribed to them in the Original Note.

B. The Loan is secured by that certain Real Property Mortgage dated April 28, 2010 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2010-062606 (the "Mortgage") covering that certain parcel of land being Lot 9 of the Waikoloa Development as shown on File Plan Number 1172, containing an area of 31.322 acres, more or less, and identified by Tax Map Key No. (3) 6-8-002-021 (the "Mortgaged Property"). The Mortgaged Property was subsequently subdivided into three lots.

C. Borrower has requested the Lender to amend the Mortgage to release a material portion of the mortgaged security by changing and replacing the legal description of the Mortgaged Property with a subdivided portion of the Mortgaged Property known as Lot 9-C, containing an area of approximately 14.622 acres.

D. In consideration of the foregoing release of security, The Borrower has requested the Lender to amend the Note to increase the principal amount of the Loan from \$540,000.00 to \$809,504.00 and extend the Maturity Date of the Loan to December 1, 2013.

E. The Lender is willing to so amend the Original Note and Mortgage, in accordance with the terms and conditions of this Agreement, the Note, and the Mortgage.

**II. AGREEMENTS.** In consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**A. First Amendment of Promissory Note.**

1. The principal amount of the Original Note is hereby amended to be EIGHT HUNDRED NINE THOUSAND FIVE HUNDRED FOUR AND 00/100 DOLLARS (\$809,504.00). Notwithstanding anything to the contrary in this Agreement or the Original Note, the Borrower and Lender hereby acknowledge and agree that the "balloon payment" due to Lender from Borrower on the Maturity Date shall be equal to EIGHT HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$840,000.00).

2. The paragraph bearing the heading "Interest Rate" on page 1 of the Original Note is hereby deleted in its entirety and replaced with the following:

ImageDB:2329349.9

"The interest payable under this Note shall be at the rate of **FIVE PERCENT (5.00%) per annum**. Interest shall be calculated on the basis of a three hundred sixty-five (365) day year for actual days elapsed."

3. The "Maturity Date", as described in the paragraph bearing the heading "**Payments: Maturity Date**" on page 1 of the Original Note, is hereby amended to be December 1, 2013.

4. The final sentence of the paragraph bearing the heading "**Default: Acceleration**" on page 2 of the Original Note is hereby deleted in its entirety and replaced with the following:

"Notwithstanding anything to the contrary herein, upon any default by Maker, Holder shall provide to Maker a notice of such default and Maker shall have forty-five (45) days from such notice (the "Cure Period") to cure such default. Such forty-five (45) day Cure Period shall run concurrently with, and shall not be in addition to the Cure Period provided in the First Amendment to Real Property Mortgage executed concurrently with this Agreement."

5. Except as amended herein, the Original Note shall remain unaffected and shall continue in full force and effect.

**B. Full Force and Effect.** The provisions of the Original Note and any other documents evidencing or securing the Loan (the "Loan Documents") are hereby amended to conform with this Agreement, and in the event of any conflict between the provisions of this Agreement and the provisions of the Loan Documents, the provisions of this Agreement shall control; but in all other respects, the provisions of the Loan Documents shall continue in full force and effect. This Agreement constitutes an amendment only and not a novation or an accord and satisfaction

**C. Bind and Inure.** This Agreement shall be binding upon and inure to the benefit of the Borrower and the Lender and their respective heirs, personal representatives, successors, successors in trust and assigns.

**D. Applicable Law; Severability.** This Agreement and each of the Loan Documents shall be governed by and interpreted in accordance with the laws of the State of Hawaii. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected.

**E. Paragraph Headings.** The heading of paragraphs in this Agreement are inserted only for convenience and shall in no way define, describe or limit the scope or intent of any provision of this Agreement.

**F. Incorporation of Agreements.** This Agreement incorporates all agreements between the parties relating to the subject matter hereof, and supersedes all other prior oral or written letters, agreements or understandings relating to the subject matter hereof. This Agreement may not be modified or amended, nor any of the provisions hereof waived, except by an instrument in writing signed by the parties hereto.

**G. Counterparts.** The parties hereto agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. For all purposes, including, without

limitation, delivery of this Agreement, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

InmanageDB:2329349.9

3

above.  
IN WITNESS WHEREOF, the parties have executed this Agreement on the date written

**BORROWER:**

**HAWAIIAN RIVERBEND, LLC,**  
a Hawaii limited liability company

8/7/13


8/8/13

By

  
Michael Mirov  
Its Manager

**LENDER:**

  
KENNETH Y. KAI, Trustee as aforesaid

  
TAE K. KAI, Trustee as aforesaid

STATE OF CALIFORNIA

COUNTY OF Santa Clara

On August 10, 2013 before me, Quang Hung Haung, Notary Public  
(insert name and title of the officer)

personally appeared **MICHAEL MIROYAN**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

**DESCRIPTION OF THE ATTACHED DOCUMENT**

First Amendment of promissory  
(Title or description of attached document)

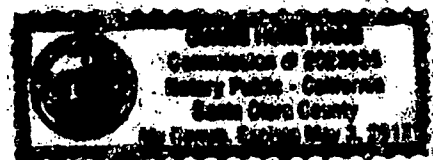
Note

(Title or description of attached document continued)

Number of Pages: 4 + 1

Document Date: \_\_\_\_\_

(Additional Information)



**CAPACITY CLAIMED BY SIGNER**

Trustee(s)

Attorney-in-Fact

Other \_\_\_\_\_



STATE OF CALIFORNIA

COUNTY OF San Jose

On October 11, 2013 before me, Sharon La Fountain Evans, Notary Public  
(insert name and title of the officer)

personally appeared TAE K. KAI, Trustee as aforesaid, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)

DESCRIPTION OF THE ATTACHED DOCUMENT

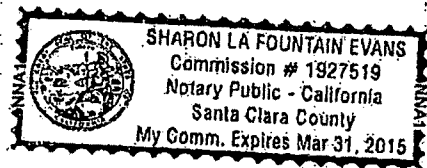
First Amendment of Promissory Note  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages: 4 + 7

Document Date: \_\_\_\_\_

(Additional Information)



CAPACITY CLAIMED BY SIGNER

Trustee(s)

Attorney-in-Fact

Other \_\_\_\_\_

## **Exhibit 8**

## **Exhibit 8**

Electronically Filed  
THIRD CIRCUIT  
3CC16100043K  
07-DEC-2021  
10:48 AM  
Dkt. 60 ORDD

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

GANG CHEN,

Plaintiff,

v.

HAWAIIAN RIVERBEND, LLC.,

Defendant.

) Civ. No. 3CC-16-1-00043K

)

)

) ~~ORDER GRANTING~~ *DENYING* ~~DEFENDANT'S~~ *PK*  
) MOTION TO JOIN MICHAEL MIROYAN  
) AS A NAMED DEFENDANT.

)

) Non-Hearing Motion

)

) Judge: Honorable Robert D. S. Kim

)

) No Trial Date Set

)

)

)

)

)

~~DENYING~~ *UK*  
ORDER GRANTING DEFENDANT'S MOTION TO JOIN  
MICHAEL MIROYAN AS A NAMED DEFENDANT

Defendant HAWAIIAN RIVERBEND, LLC's Motion to Join Michael Miroyan as a Named Defendant in the above-captioned case came before the Court as a non-hearing motion filed October 13, 2021.

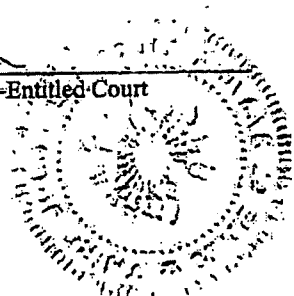
THE COURT, having considered the filed submissions by both parties and after having considered the record as a whole, determined that Defendant HAWAIIAN RIVERBEND, LLC's motion to join Michael Miroyan as a named defendant in this case is ~~GRANTED~~.

~~DENIED~~ *PL*

*December 6*  
Dated: Kailua-Kona, HI October \_\_\_\_\_, 2021

Signed: *[Signature]*

Judge of the Above-Entitled Court



Gang Chen v. Hawaiian Riverbend, LLC., Civ. No. 3CC-16-1-00043K. Order Granting Defendant's Motion Join Michael Miroyan as a Named Defendant.

**Exhibit 9**

**Exhibit 9**

15	<del>12/11/2018</del>	Document Converted DOC ID: , Comments: OF TIME TO FILE PRETRIAL STATEMENT	PLAINTIFF'S EX PARTE MOTION FOR FIRST EXTENSION OFTIME TO FILE PRETRIAL STATEMENT; DECLARATION OF COUNSEL; ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S EX PARTE MOTION FOR FIRST EXTENSION	All Case Parties	Leu, Lansen Hon Gong
16	<del>12/20/2018</del>	Document Converted DOC ID: , Comments: NOTICE OF HEARING AND CERTIFICATE OF SERVICE (HRG: 2/14/19 AT 8:00 A.M. BEFORE JUDGE KIM)	PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND FOR INTERLOCUTORY DECREE OF FORECLOSURE AGAINST ALL PARTIES; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF INDEBTEDNESS; EXHIBITS "1"- "4";	All Case Parties	Doi, Karyn A.

5/10



28	<del>02/14/2019</del>	Minutes DIGITAL RECORDING CC3.19-28/ 2019- 2-14/0811- 0812FOCLERK - L. FURUTO APPEARANCES: PLAINTIFF COUNSEL - D. KIKAWA (BY PHONE) COURT: DEFENDANT HAS BEEN DEFAULTED. KIKAWA: YES COURT: DEFAULT HAS BEEN ENTERED IN NOVEMBER RESPONSE BY KIKAWA . <del>RULING***</del> <del>COURT WILL</del> <del>GRANT THE</del> <del>MOTION FOR</del> <del>SUMMARY</del> <del>JUDGMENT</del>	All Case Parties		
17	<del>03/08/2019</del>	Findings/Fact Concl of Law-Ord Converted DOC ID: FOF, Comments: (COMMISSIONER: ANDREW M. KENNEDY)	FINDINGS OF FACT; CONCLUSIONS OF LAW; AND ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND INTERLOCUTORY DECREE OF FORECLOSURE AGAINST ALL PARTIES FILED DECEMBER 20, 2018; EXHIBIT "A"	All Case Parties	Doi, Karyn A.
18	03/08/2019	Document Converted DOC ID: JUDG, Comments:	JUDGMENT	All Case Parties	Doi, Karyn A.
19	03/08/2019	Document Converted DOC ID: NOJ, Comments:	NOTICE OF ENTRY OF JUDGMENT	All Case Parties	Doi, Karyn A.

6/16

20	03/08/2019	Document Converted DOC ID: , Comments:	<del>MAILED/DELIVERED</del> COPIES OF NOTICE OF ENTRY OF JUDGMENT TO PARTIES THEREIN	All Case Parties	
21	07/11/2019	Document Converted DOC ID: , Comments:	NOTICE OF BANKRUPTCY DISMISSAL; EXHIBIT "1"; CERTIFICATE OF SERVICE	All Case Parties	Doi, Karyn A.
22	09/03/2019	Document Converted DOC ID: , Comments:	MOTION FOR INSTRUCTIONS FOR SALE WITHOUT OPEN HOUSES; DECLARATION OF ANDREW M. KENNEDY; NOTICE OF HEARING; CERTIFICATE OF SERVICE (HRG: 9/23/19 AT 8:30 A.M. BEFORE JUDGE KIM)	All Case Parties	Kennedy, Andrew
23	09/06/2019	Document Converted DOC ID: , Comments:	PLAINTIFF'S STATEMENT OF NO OPPOSITION TO MOTION FOR INSTRUCTIONS FOR SALE WITHOUT OPEN HOUSES; CERTIFICATE OF SERVICE (HRG 9/23/19 AT 8:30 A.M. JUDGE KIM)	All Case Parties	Doi, Karyn A.
24	09/26/2019	Document Converted DOC ID: , Comments:	NOTICE OF CONTINUED HEARING ON COMMISSIONER'S MOTION FOR INSTRUCTIONS (HRG 10/2/19 AT 8:00 A.M.)	All Case Parties	Kennedy, Andrew

2/218

1 Michael Miroyan  
2 P.O. Box 3181  
3 Saratoga, CA 95070  
4 Tel: (408) 913-3123  
5 E-mail: mac8881@me.com

6 Petitioner in Propria Persona

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**

10 GANG CHEN,

11 Plaintiff,

12 v.

13 HAWAIIAN RIVERBEND, LLC,

14 Defendant.

CIV. NO. 3CC-16-1-00043K

CERTIFICATE OF COUNSEL  
AFFIRMING GOOD FAITH IN  
FILING MOTION TO RECUSE  
JUDGE ROBERT D.S. KIM

15 I, Margaret Willie declare:

16 1. I am the attorney of record, representing both Defendant Hawaiian  
17 Riverbend, LLC in this case, as well as representing Defendant Michael  
18 Miroyan individually in this case as well.

19 2. I have read Mr. Miroyan's Motion for Recusal of Judge Robert D.S.  
20 Kim, Miroyan's supporting affidavit along with supporting Exhibits as well as his  
21 supporting Memorandum of Points and Authorities filed in support of his  
22 recusal motion.

23 3. Upon reviewing all of Mr. Miroyan's pleadings in this matter, I hereby  
24 certify that the filing is being made in good faith pursuant to HRS Section 601-

25 7.

26 //

27 //

28 //

//

~~MOTION TO DISQUALIFY/RECUSE JUDGE ROBERT D.S. KIM [HRS § 601-7]~~

1 I declare under penalty of perjury of the laws of the State of Hawaii  
2 that the foregoing is true and correct.

3  
4 Date: \_\_\_\_\_ Margaret Wille  
5 Margaret Wille & Associates LLC  
6 Attorney for Defendants  
7 Hawaiian Riverbend LLC and  
8 Michael Miroyan individually  
9  
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26  
27  
28

1 Michael Miroyan  
P.O. Box 3181  
2 Saratoga, CA 95070  
Tel: (408) 913-3123  
3 E-mail: mac8881@me.com

4 Petitioner in Propria Persona

5 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
6 **OF THE STATE OF HAWAII**  
7

8 GANG CHEN,

9 Plaintiff,

10 v.

11 HAWAIIAN RIVERBEND, LLC,

12 Defendant.

CIV. NO. 3CC-16-1-00043K

[PROPOSED] ORDER

?

13  
14 Upon review of Michael Miroyan's Affidavit of Judicial Bias and the  
15 Exhibits filed in support thereof, the Court hereby Orders:

- 16 1. Michael Miroyan's Motion to recuse Judge Robert D.S. Kim is  
17 GRANTED.

1 Michael Miroyan  
2 P.O. Box 3181  
3 Saratoga, CA 95070  
4 Tel: (408) 913-3123  
5 E-mail: mac8881@me.com

6 Petitioner in Propria Persona

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**

10 **GANG CHEN,**

11 Plaintiff,

12 v.

13 **HAWAIIAN RIVERBEND, LLC,**

14 Defendant.

**CIV. NO. 3CC-16-1-00043K**

**CERTIFICATE OF SERVICE RE:  
MOTION TO DISQUALIFY/RECUSE  
JUDGE ROBERT D.S. KIM FOR BIAS  
AND PREJUDICE**

**Date: Thursday February 22<sup>nd</sup> 2022  
Time: 10:30 a.m.**

15 Leu Okuda & Doi, Attorneys at Law  
16 Karyn A. Doi, Esq.  
17 The Merchant House  
18 222 Merchant St.  
19 Honolulu, HI 96813

CM/ECF - e filing

20 Attorney for Plaintiff Gang Chen

21 Andrew M. Kennedy, Esq  
22 75-167 Kalani Street #1201  
23 Kailua-Kona HI 96740

CM/ECF - e filing

24 Appointed Commissioner

25 Dated: 2-3-2022.

26  
27  
28  
  
Michael Miroyan

~~MOTION TO DISQUALIFY/RECUSE JUDGE ROBERT D.S. KIM [HRS § 601-7]~~





Comfort Suites <comfortsuiteshotel1@gmail.com>

---

**Fwd: 3CC16100043K GANG CHEN VS HAWAIIAN RIVERBEND LLC**

1 message

---

**Michael Miroyan** <michaelmiroyan99@gmail.com>

Mon, Apr 11, 2022 at 6:37 AM

To: "Comfort Suites 1St St., San Jose" <comfortsuiteshotel1@gmail.com>

Please print for room 201

Sent from mm iPhone

Begin forwarded message:

**From:** Michael Miroyan <michaelmiroyan99@gmail.com>

**Date:** February 9, 2022 at 1:50:17 AM PST

**To:** "Malik," <maliklaw@gmail.com>

**Subject:** Fwd: 3CC16100043K GANG CHEN VS HAWAIIAN RIVERBEND LLC

Sent from mm iPhone

Begin forwarded message:

**From:** KonaLegalDocs 3CC <KonaLegalDocs.3CC@courts.hawaii.gov>

**Date:** February 7, 2022 at 11:43:15 AM PST

**To:** michaelmiroyan99@gmail.com

**Subject:** RE: 3CC16100043K GANG CHEN VS HAWAIIAN RIVERBEND LLC

Please see attached Motion to Disqualify, etc. that was submitted by courts document drop box on 2-4-22 at 1:05 p.m.

Thank-you,

Legal Documents-Kona Division  
Circuit Court of the Third Circuit  
74-5451 Kamaka'eha Avenue  
Kailua-Kona, HI 96740  
(808)-322-8750

<3cc16100043k chen vs hawaiian riverbend, llc - mtn to disqualify, etc.pdf>



Comfort Suites <comfortsuiteshotel1@gmail.com>

---

**Fwd: 3CC16100043K GANG CHEN vs. HAWAIIAN RIVERBEND, LLC**

1 message

---

**Michael Miroyan** <michaelmiroyan99@gmail.com>

Mon, Apr 11, 2022 at 6:38 AM

To: "Comfort Suites 1St St., San Jose" <comfortsuiteshotel1@gmail.com>

Print for #201

Sent from mm iPhone

Begin forwarded message:

**From:** Michael Miroyan <michaelmiroyan99@gmail.com>

**Date:** February 6, 2022 at 12:38:13 AM PST

**To:** "Malik," <maliklaw@gmail.com>

**Subject:** Fwd: 3CC16100043K GANG CHEN vs. HAWAIIAN RIVERBEND, LLC

Are you answering these emails to me?

Sent from mm iPhone

Begin forwarded message:

**From:** KonaLegalDocs 3CC <KonaLegalDocs.3CC@courts.hawaii.gov>

**Date:** February 2, 2022 at 5:00:55 PM PST

**To:** michaelmiroyan99@gmail.com

**Subject:** Re: 3CC16100043K GANG CHEN vs. HAWAIIAN RIVERBEND, LLC

Thank-you,

Legal Documents-Kona Division  
Circuit Court of the Third Circuit  
74-5451 Kamaka'eha Avenue  
Kailua-Kona, HI 96740  
(808)-322-8750

---

**From:** KonaLegalDocs 3CC

**Sent:** Wednesday, February 2, 2022 3:00 PM

**To:** michaelmiroyan99@gmail.com <michaelmiroyan99@gmail.com>

**Subject:** RE: 3CC16100043K GANG CHEN vs. HAWAIIAN RIVERBEND, LLC

Good Afternoon Mr. Miroyan,

Your document that was uploaded into the court's document drop box on 1/31/22 has been filed & is attached for the above referenced case.

Case: 18-52601 Doc# 105 Filed: 04/11/22 Entered: 04/11/22 15:06:54 Page 100  
of 124

Thank-you,

Legal Documents-Kona Division  
Circuit Court of the Third Circuit  
74-5451 Kamaka'eha Avenue  
Kailua-Kona, HI 96740  
(808)-322-8750

1 Michael Miroyan  
2 P.O. Box 3181  
3 Saratoga, CA 95070  
4 Tel: (408) 913-3123  
5 E-mail: mac8881@me.com

6 In Propria Persona

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**

10 GANG CHEN,

11 Plaintiff,

12 v.

13 HAWAIIAN RIVERBEND, LLC,

14 Defendant.

15 **CIV. NO. 3CC-16-1-00043K**

16 **MEMORANDUM OF POINTS  
17 & AUTHORITIES IN SUPPORT  
18 OF OPPOSITION TO WILLE  
19 MOTION TO WITHDRAW**

20 **[HRCP RULE 25.1]  
21 [HRPR RULE 1.16]**

22 Defendant Michael Miroyan, individually and Managing Member of  
23 Hawaiian Riverbend LLC hereby opposes the Motion of Attorney Margaret  
24 Wille as follows:

25 **1. MIROYAN HAS NOT SIGNED THE CONSENT TO ATTORNEY  
26 WITHDRAWAL MANDATED BY RULE 25.1 OF HAWAII'S CODE  
27 OF CIVIL PROCEDURE**

28 Motions to Withdraw must comply with HRCP Rule 25.1 and Rule  
1.16 of the Hawaii Rules of Professional Conduct.

Rule 25.1 states:

**Rule 25.1 - Withdrawal, Substitution, and Appearance of  
Counsel**

(a) Except as provided in Rule 10(c) of the Rules of the Circuit  
Courts, withdrawal and substitution of counsel in cases  
pending before the circuit courts shall be effective only  
upon the approval of the court and shall be subject to the  
guidelines of Rule 1.16 of the Hawai'i Rules of  
Professional Conduct and other applicable law.

(b) **A withdrawal and substitution of counsel shall:**  
(1) Cite the relevant authority for the withdrawal and

- 1 substitution;  
2 (2) **Include the signatures of the withdrawing attorney and**  
3 **the substituting attorney;**  
4 (3) Include the words "APPROVED AND SO ORDERED" and  
5 a line below such words for the signature of the judge;  
6 (4) Indicate the trial date, if any; and  
7 (5) Include the signature of the represented party indicating  
8 the represented party's consent to the withdrawal and  
9 substitution.

10 Haw. R. Civ. P. 25.1

11 The above Code of Civil Procedure references Rule 1.16 of Hawaii's  
12 Rules of Professional Conduct which states in pertinent part:

13 **Rule 1.16. DECLINING OR TERMINATING REPRESENTATION.**

- 14 (b) Except as stated in paragraph (c), a lawyer may withdraw from  
15 representing a client if:

- 16 (1) **withdrawal can be accomplished without material**  
17 **adverse effect on the interests of the client;**

- 18 (c) A lawyer must comply with applicable law requiring notice to or  
19 permission of a tribunal when terminating a representation.  
20 When ordered to do so by a tribunal, a lawyer shall continue  
21 representation notwithstanding good cause for terminating the  
22 representation.

- 23 (d) Upon termination of representation, a lawyer shall take steps to  
24 the extent reasonably practicable to protect a client's interests,  
25 such as giving reasonable notice to the client, allowing time for  
26 employment of other counsel, surrendering papers and property  
27 to which the client is entitled, refunding any advance payment of  
28 fee or expense that has not been earned or incurred, and, upon  
request, providing an accounting of such funds.

COMMENTS:

- [1] A lawyer should not accept representation in a matter unless it can be  
performed competently, promptly, without improper conflict of interest  
and to completion. Ordinarily, a representation in a matter is  
completed when the agreed-upon assistance has been concluded.  
See Rules 1.1, 1.2(c), and 6.5 of these Rules. See also Comment [4]  
to Rule 1.3 of these Rules.

Mandatory Withdrawal

- [3] When a lawyer has been appointed to represent a client, withdrawal  
ordinarily requires approval of the appointing authority. See also Rule  
6.2 of these Rules. Similarly, court approval or notice to the court is  
often required by applicable law before a lawyer withdraws from  
pending litigation.

1 Optional Withdrawal

2 [7] A lawyer may withdraw from representation in some circumstances.  
3 The lawyer has the option to withdraw if it can be accomplished  
4 without material adverse effect on the client's interests...

4 Assisting the Client Upon Withdrawal

5 [9] Even if the lawyer has been unfairly discharged by the client, a lawyer  
6 must take all reasonable steps to mitigate the consequences to the  
7 client.

7 **2. ALLOWING ATTORNEY MARGARET WILLE TO WITHDRAW  
8 WITHOUT SECURING SUBSTITUTE COUNSEL WILL RESULT IN  
9 THE LLC NAKED WITHOUT REPRESENTATION WITH NO VOICE**

9 The reason for allowing Attorney Margaret Wille to withdraw is very  
10 simple reason for this is so that the LLC will be left without a voice, the LLC  
11 will be naked in front of the judge and not able to communicate, defend or  
12 protect itself and this seems to be exactly what judge Kim wants. Why  
13 have somebody defending themselves when you can have them  
14 bludgeoned to death??

15 Such viewpoints and attitudes as this should not be among the  
16 attributes of the statesmen who are our state judges. This is not a neutral  
17 referee that we are talking about. Margaret Willie is not in compliance with  
18 Rule 25.1 at all she cites no case law to support her withdrawal position, she  
19 has no substitute counsel coming in to take over the job that she is  
20 abdicating, she has not received the signature of managing member  
21 Miroyan and of the LLC he represents, who is vehemently opposed to her  
22 cutting and running.

23 Besides the fact that she's been paid to do a job that she has not  
24 done, the fact is is that Ms. Wille the fact is that Miss Wille is playing right  
25 into Judge Kim's hands who wants the LLC without representation.

26 //

27 //

28 //



1 **3. MIROYAN FEARS THAT THE WILLE MOTION TO WITHDRAW IS A**  
2 **REPEAT OF JUDGE KIM'S GRANT OF ATTORNEY SULLA'S**  
3 **MOTION TO WITHDRAW IN THE TEREICK CASE**

4 Miroyan on the other hand, has a duty to protect the assets of the LLC  
5 but he cannot address the court and if you cannot address the court then  
6 Judge Kim will have his bludgeoning way just like he did in the Tereick case  
7 where he on April 13 2018, in a secret and clandestine meeting misnamed  
8 as a hearing, allowed attorney Paul Sulla Jr. to withdraw from his  
9 representation of HR LLC, in the Tereick case.. Miroyan, the managing  
10 member of HR, LLC had no knowledge that this hearing was even taking  
11 place nor that the motion had been made for Attorney Sulla to withdraw  
12 because it was purposely hidden from him and that this was actually taking  
13 place. The net result of this travesty of justice upon which the book is not  
14 yet closed is that Miroyan had no voice at the Court Confirmation hearing  
15 where Judge Kim adopted a crooked BPO by broker David Lucas from KOA  
16 Realty of \$240,000 for the valuation of the 11 acre property. That same  
17 acreage of 11 acres with the same zoning Ag5 zoning sold across the street  
18 from HR LLC's property and the same size lot and with the same zoning  
19 directly across the street sold for \$1.5 million all cash on April 24th, 2018.  
20 The seller was none other than Miroyan's Attorney of record, Mr. Paul Sulla  
21 Jr. No wonder Mr. Sulla wanted to withdraw so quickly on the 13th of April.  
22 No wonder Mr. Sulla kept it hidden from the managing member of the LLC  
23 he represented.

24 Mr. Sulla's sale of that property across the street from HR, LLC's  
25 created a huge conflict of interest and Sulla did not disclose the sales price  
26 to Judge Kim or anyone else and kept the sale secret for over 2 months until  
27 he could do so no longer. Miroyan read about this sale in the newspaper  
28 three days before the court confirmation hearing. Three days before the  
court confirmation hearing on July 19 2018, Miroyan sent emails to the judge

1 pointing out the factual sale that took place directly from the tax assessors  
2 office. Judge Kim in his impartial role as a neutral referee completely  
3 ignored it completely ignored it completely ignored a factual sale that was  
4 the best comparable property and was the most recent sale in Waikalua  
5 Village. Compare that to compare that to David Lucas's BPO which stated  
6 there are no comparable properties which stated there are no comparable  
7 properties that were sold in Waikalua Village, a flat out lie and one that was  
8 self serving as he joined the conspiracy of elderly abuse do you understand  
9 conspiracy of elder abuse by assisting Steven Whittaker attorney for Tereick  
10 and Michael Schluter attorney commissioner along with Judge Kim in their  
11 conspiracy to defraud Miroyan of his property and steal his equity.

12 Now here come Margaret Willie in the next case just like companion  
13 case Tereick, here come Margaret Willie in the Chen case like what  
14 occurred in the companion case Tereick where Miroyan was witnessing his  
15 LLC lose \$1.5 million in equity so far witnessing his LLC lose \$1.5 million in  
16 equity by two people who did not deserve it two people who conspired  
17 together to steal it from him from. Miroyan was not about to let that happen  
18 a second time

19 **4. ATTORNEY WILLE FALSELY CLAIMS COMPLIANCE WITH HRCF**  
20 **RULE 25.1 IN HER PROPOSED ORDER FOR THE JUDGE TO**  
21 **SIGN**

22 In the case at bar Margaret Willie falsely states on her order that she's  
23 asking the judge to sign, she falsely states on the order that she is asking the  
24 judge to sign that Margaret Will states:

25 "it is appearing that all the requirements are the Hawaii rules of  
26 Civil Procedure rule 25.1 has been satisfied."

27 There is no other way to comment upon such a statement but to state  
28 that this is a bold faced lie. Margaret Wille has not complied with all the  
requirements of rule 25.1 nor have they all been satisfied, as a matter of

1 fact, none of them have been satisfied. There are five main requirements  
2 provided in Hawaii Rules of Civil Procedure rule 25.1 and they are:

- 3 1. Cite the relevant authority for the withdrawal and substitution.  
4 Margaret Willey cannot do so and has not done so Margaret  
5 Willie cannot do so and has not done so there is no relevant  
6 authority for her withdrawal because there is no substitution  
7 there is no relevant authority for her withdrawal because there is  
8 no substitution she cites no relevant authorities she cites no  
9 case law she has not complied with this requirement.
- 10 2. Include both the signatures of the withdrawing attorney and the  
11 substituting attorney. There is no substitution of counsel and  
12 that is why Miroyan as managing member opposes this  
13 withdrawal.
- 14 3. Include the words approved and so ordered include the words  
15 below such words for the signature of the judge and a line below  
16 such words for the signature of the judge Willie had to only type  
17 these four words above judge Kim signature in order to be in  
18 compliance.
- 19 4. Include the signature of the represented party in this case  
20 Hawaiian Riverbend's manager Michael Miroyan indicating that  
21 the represented party consents to withdrawal and substitution.

22 This condition obviously has not been met. Miroyan is not going to  
23 sign any such documents more like Miroyan does not consent to the  
24 withdrawal and there is no substitution.

25 Margaret Willey Margaret Willie completely failed in all aspects of this  
26 rule 25.1 she is not in compliance with any of the five requirements imposed  
27 by that rule and yet she writes in the order for the judge to sign those words:

28 "all the required for all the requirements of Hawaii rules of Civil  
Procedure rule 25.1 have been satisfied"

Miroyan insists that this perjury be prosecuted that the district  
attorneys office look into how a licensed officer of the court tell such a bold  
faced lie and have no repercussions for doing it. Miroyan insists that the  
right office investigate this matter and determine why is it that our licensed  
attorney can make such a statement under oath and get away with it without  
repercussion when it's a bold faced lie. Miroyan is not happy with the

1 representation or lack thereof by Margaret Willie. Miroyan is wondering if  
2 they lack of effort and lack of work done by miss Wille is not legal  
3 malpractice??

4 But one thing for sure having one attorney is better than having no  
5 attorney perhaps in the future Ms. Wille will not go on the record with such  
6 flagrant lies causing to her consternation such embarrassment and  
7 humiliation. Perhaps she would treat Miroyan and his LLC with more  
8 respect perhaps she will admit she made a mistake by doing absolutely  
9 nothing in the Chen case for 20 months.

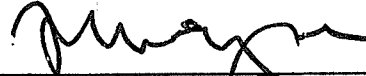
10 This motion to withdraw by Margaret Willie fails on all four corners and  
11 all four points of rule 25.1 and will not stand and it shall not stand it cannot  
12 stand. The misrepresentation and the lie by Margaret Willie in the order she  
13 expects the judge to sign is flabbergasting to entertain the thought that  
14 Judge Kim would even sign it. Margaret Wille should be admonished by the  
15 court for trying to perpetrate fraud upon the court and upon the LLC she  
16 represents Margaret Willey should be admonished for attempting to commit  
17 for committing a fraud upon the court and upon her client that she  
18 represents and so doing her efforts point to the fact she does not know  
19 enough what adverse effects will result from her withdrawao but she cares  
20 not about what adverse effects may befall HR LLC because she just wants  
21 to cut and run like a coward who lies and tells falsities who lives until they  
22 never should bolster her untenable position and when faced with a fully  
23 informed person the embarrassment the humiliation and the mockery she  
24 makes of this motion all comes back on her to roost and makes her look  
25 horrible.

26 For the foregoing reasons Michael Miroyan respectfully requests that  
27 Attorney Wille's Motion to Withdraw be denied until such time as substitute  
28 //

1 counsel is found and is able to enter an appearance in this case.

2  
3 Dated: 1-30-2022

Respectfully submitted,

4 

5 Michael Miroyan  
6 In Propria Persona  
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1 Michael Miroyan  
2 P.O. Box 3181  
3 Saratoga, CA 95070  
4 Tel: (408) 913-3123  
5 E-mail: mac8881@me.com

6 Petitioner in Propria Persona

7  
8 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
9 **OF THE STATE OF HAWAII**  
10

11 GANG CHEN,

12 Plaintiff,

13 v.

14 HAWAIIAN RIVERBEND, LLC,

15 Defendant.

16 } **CIV. NO. 3CC-16-1-00043K**

17 } MICHAEL MIROYAN'S  
18 } DECLARATION IN OPPOSITION  
19 } TO MARGARET WILLE'S  
20 } MOTION TO WITHDRAW  
21 } AS ATTORNEY

22 } [HRCP RULE 25.1]  
23 } [HRPC RULE 1.16]

24 I, Michael Miroyan under penalty of perjury of law do hereby state and  
25 declare as follows:

26 1. I am a resident of the State of California and County of Santa  
27 Clara and I am the managing member and the sole member of Hawaiian  
28 Riverbend (HR), LLC, a Hawaiian LLC in good standing since 2005.

1 2. I own 100% of the membership interests in HR, LLC and it is a  
2 single member LLC.

3 3. In December of 2019, I hired Margaret Wille as attorney to  
4 represent me in the Chen v. HR, LLC Case #16-0043.

5 4. In December of 2019, I hired Margaret Wille to represent me  
6 and my LLC. in Kona in the Kai v. HR LLC Case #15-0164K.

7 5. Ms. Wille was hired in the Chen case, from which she now  
8 seeks to withdraw to do 3 things and she was paid to do all 3 of the following  
9 on behalf of LLC:

10 1) set aside the bogus judgment because HR, LLC was never

1 informed of the Court dates and HR. LLC never received any of  
2 the pleadings for those Court dates, because Karyn Doi, counsel  
for the Plaintiff never served my LLC with those pleadings.

3 2) Bring this fact to the Court's attention even though the Court  
4 Judge Robert Kim has many prior instances of holding Court  
without the defendant HR, LLC or myself, as in the Kai case,  
where I am a party not being properly notified nor served.

5 3) To get me Michael Miroyan, added to the case as John Doe #1  
6 just like Judge Kim was ordered to do so by Federal Judge  
7 Hammond in companion case Kai v. HR, LLC, so Miroyan would  
have a voice in Court, a voice that Judge Kim has denied in the  
8 Chen case see Judge Kim's December 6 2021 order Exhibit 1.

9 6. The Chen mortgage is secured by 6 acres of land with  
10 TMK #: 6-8-002-021. That property has been in the name of Michael  
11 Miroyan since 8-9-2018, when HR LLC transferred all of it's properties to  
Michael Miroyan.

12 7. When Attorney Margaret Willie began her representation in  
13 December 2019, she knew full well what occurred in the Chen case from  
14 2016-2019 and she did nothing throughout the entire year of 2020 and she  
15 did nothing throughout the first nine months of 2021. She was paid to do the  
16 above and she did nothing.

17 8. Margaret Willie has submitted fraudulent and unauthorized  
18 invoices to me for work not done. And they've been put into dispute by me  
19 and rejected.

20 9. Margaret Willie was aware that I filed for BK protection on  
21 11/26/2018 case number 18-52601. And she was further aware that during  
22 the automatic stay from 11/26/2018 to June 25th 2019 that Judge Kim and  
23 opposing counsel Karyn Doi were holding secret and clandestine, highly  
24 illegal court proceedings in this Chen case without my knowledge or consent  
25 and I was never informed of any of the hearing dates nor was I ever served  
26 any pleadings. To the contrary, I was embroiled in a BK in another state  
27 California when Judge Kim and his co-conspirator Doi were trampling on my  
28



1 rights in Hawaii in a flagrant violation of federal law and common decency.  
2 Both Judge Kim and attorney Doi knew all about the BK and they both  
3 knew my addresses and my phone number. Doi had California lawyers  
4 submit pleadings in the Bankruptcy case, proving her knowledge of  
5 Miroyan's BK filing and the automatic stay. When faced with Judge Kim's  
6 prejudicial bias against Miroyan and HR, LLC, and his willingness to ignore  
7 the automatic stay and proceed with and entertain a Motion for Summary  
8 Judgment, well why should Ms. Doi say to the Judge: "I don't think that  
9 would be proper or legal?" Why should she do that when her constitutional  
10 makeup is against it. Why should she follow the rules when she lacks the  
11 makeup to do so. She decided to openly work with Judge Kim to violate the  
12 Automatic Stay and to file and set for hearing a Motion for Summary  
13 Judgment. Karen Doi was more than willing to go along with not providing  
14 Miroyan with any documents she was filing, she went to bed with Judge Kim  
15 in violating the rights of the LLC, despite being in BK. This reeks of  
16 corruption and favoritism. The State Bar complaint to be filed against Karen  
17 Doi will expose the actions of Attorney Doi and Judge Kim in conspiring  
18 against HR, LLC in securing Summary Judgment despite it being forbidden  
19 to do by virtue of the Automatic Stay.

20 10. Judge Kim was notified formally of my BK by opposing counsel  
21 Michael Carroll on December 20, 2018 24 days after we informed him and  
22 his office of the BK on 11-26-2018. See Exhibit 2.

23 11. Margaret Willie should not be allowed to withdraw. She's been  
24 paid to do a job she hasn't done. Summary judgment was granted in this  
25 case by judge Kim on 2-4-2019 smack dab in the middle of the automatic  
26 federal bankruptcy stay. His ruling is void. The following notice was  
27 contained on form 309I of my chapter 13 bankruptcy filing:

28 "Official Form 309I

1 Notice of Chapter 13 Bankruptcy Case

2 For the debtors listed above, a case has been filed under  
3 chapter 13 of the Bankruptcy Code. An order for relief has been  
4 entered.

5 This notice has important information how about the case for  
6 creditors debtors and trustees including information about the  
meeting of the creditors and deadlines. Read both pages  
carefully.

7 The filing of the case imposed an automatic stay against most  
8 collection activities. This means that creditors generally may not  
9 take action to collect debts from the debtors, the debtor's  
property, and certain codebtors. For example, while the state is  
10 in effect, creditors cannot sue, garnish wages, assert a  
deficiency, repossess property, or otherwise try to collect from  
11 the debtors. Creditors cannot demand repayment from debtors  
by mail, phone, or otherwise. Creditors who violate the stay can  
12 be required to pay actual and punitive damages and attorney's  
fees. Under certain circumstances, this stay may be limited to 30  
days or not exist at all, although debtors can ask the court to  
extend or impose a stay."

13 12. Margaret Willie has been paid to bring that motion. Karyn Doi  
14 and Judge Kim and their incestuous relationship make a mockery of court  
15 when it is really a flagrant illegal ex parte communication.

16 13. The judgment was sent to me after it was illegally granted by  
17 Judge Kim and it's \$100,000 or more too high and it is also void. But note  
18 how quickly Doi sent me that Judgment once she procured it through her  
19 dishonest and knowingly treacherous actions in conjunction with Judge Kim.  
20 Doi figures that no one will call her on her disgusting conduct while Karyn  
21 Doi figured wrong. She is not worried about me, she enjoys protection from  
22 Judge. Miroyan says this to the wicked witch Karyn Doi: "Thou art a fool who  
23 has only discredited thyself" Your blatant participation in conspiring to steal  
24 without due process of law the land from an elderly senior citizen by law  
25 constitutes elder abuse, and you shall be held accountable in a court of law  
26 one for your humiliating disgression.

27 14. My LLC will be adversely affected if Margaret Willey is allowed to  
28

1 withdraw.

2 15. Judge Kim could care less how adversely my LLC is affected by  
3 the withdrawal of Ms. Wille. His bias and prejudice is more than obvious.  
4 He's personally done everything to hurt me and my LLC and has never in  
5 seven years allowed me to speak in court. Judge Kim had denied me  
6 personally on his own from access to the courts creating the result of  
7 manifest injustice. Judge Kim should be eradicating manifest injustice when  
8 he sees it not creating it from his bench a bench from which he for sure is  
9 not fit to serve.

10 16. Judge Kim wants to deny me and my LLC access to the courts.  
11 Judge Kim and his co-conspirator Doi have broken federal and state laws  
12 and made a mockery of the Hawaiian legal system by bringing unparalleled  
13 shame through their incestuous conduct and tactics.

14 17. Margaret Wille, for fear or camaraderie seeks to withdraw without  
15 substitution and it should be denied

16 18. I am bringing a motion to recuse Judge Kim for bias and  
17 prejudice against me and my LLC and I demand he step down from this  
18 case and all others involving me and my LLC immediately for his impartiality  
19 is nonexistent. However his bias and prejudice certainly is not!. They are  
20 clear for all to see.

21 19. Margaret Wille manufactures in her affidavit falsities to seek to  
22 withdraw when in reality she doesn't want to do what she's been paid to do  
23 and her conduct warrants closer examination.

24 20 I have had no time to hire other counsel and until my motion to  
25 recuse Judge Kim is adjudicated and heard, it is premature to entertain and  
26 rule upon this Motion. This motion to withdraw is premature and  
27 unwarranted. It also must be denied because it squarely fails on all four  
28 corners of Rule 25.1. Wille is in compliance with none of them. The

1 audacity that she exhibits is ridiculous in light of the requirements mandated  
2 by Rule 25.1

- 3 1. Wille cites no law for her position.
- 4 2. Wille has no substitution attorney, and therefore no substittue attorney  
can not sign the order.
- 5 3. Wille does not have the managing member Miroyan signing off on his  
6 agreement to that which is occurring, because Miroyan does not his  
LLC left without a voice.

7 Margaret Wille is not in compliance with any of the four aspects of  
8 Rule 25.1 delineated above. See paragraph (b)(1) through (b)(5) on page  
9 —.

10 21. In the Proposed Order Granting Motion to Withdraw as Counsel  
11 On Behalf of Hawaiian Riverbend, LLC and on behalf of Michael Miroyan it  
12 falsely states in paragraph 1, line 4 (See Exhibit 4):

13 "it appearing that the requirements of the Hawai'i Rules of Civil  
14 Procedure Rule 25.1 have been satisfied,"  
15 That is a flat out lie...

16 Rule 25.1 states in relevant part:

17 **Rule 25.1 - Withdrawal, Substitution, and Appearance of**  
18 **Counsel (See Exhibit 5)**

- 19 (a) Except as provided in Rule 10(c) of the Rules of the Circuit  
20 Courts, withdrawal and substitution of counsel in cases  
pending before the circuit courts shall be effective only  
21 upon the approval of the court and shall be subject to the  
guidelines of Rule 1.16 of the Hawai'i Rules of  
Professional Conduct and other applicable law.

22 **(b) A withdrawal and substitution of counsel shall:**

- 23 (1) Cite the relevant authority for the withdrawal and  
24 substitution;
- 25 **(2) Include the signatures of the withdrawing attorney and**  
**the substituting attorney;**
- 26 (3) Include the words "APPROVED AND SO ORDERED" and  
27 a line below such words for the signature of the judge;
- 28 (4) Indicate the trial date, if any; and

1                   **(5) Include the signature of the represented party**  
2                   **indicating the represented party's consent to the**  
3                   **withdrawal and substitution.**

4                   Haw. R. Civ. P. 25.1

5                   \_\_\_\_\_Wille's Motion does not comply with HRCP Rule 25.1(b)(2) and Rule  
6                   25.1(b)(5) which state:

7                   **(2) Include the signatures of the withdrawing attorney and the**  
8                   **substituting attorney;**

9                   **(5) Include the signature of the represented party indicating the**  
10                   **represented party's consent to the withdrawal and substitution.**

11                   22. The fact is there is no signature of any substituting attorney  
12                   signing on to this document before the judge signs it. Since there is no  
13                   substituting attorney's signature, nor the signature of the represented party's  
14                   consent to the withdrawal and substitution, it demonstrates Wille has lied to  
15                   this Court in her moving papers.

16                   23. Miroyan is vehemently opposed to this withdrawal and therefore  
17                   these valid reasons coupled with the fact that Ms. Wille is lying in her  
18                   moving papers are satisfactory reasons enough to deny her motion

19                   24. This Motion should not even be ruled on by Judge Kim because  
20                   Judge Kim has before him my recusal motion, and therefore he should not  
21                   rule on this motion. If Judge Kim decides to rule on this Motion, it shall  
22                   establish manifest injustice since the provisions of Rule 25.1 have been not  
23                   complied with. Judge Kim must recuse himself and hand over this Motion to  
24                   a different Judge.


25                   25. If Judge Kim were to grant this Motion, it will be in violation of  
26                   the state law also especially in light of this sworn declaration by Michael  
27                   Miroyan pointing out the facts that the Motion papers are far from satisfying  
28                   all the requirements of Civil Procedure 25.1 as a matter of fact it satisfies  
29                   none of them.

1 26. If this Court rules in Attorney Wille's favor Miroyan will have no  
2 choice but to appeal the decision to the ICA and seek Mandamus. When  
3 the Mandamus is issued, and it will, this malicious ruling with no basis for it  
4 will be vacated and sent to another Judge in the Third Circuit Court, thus  
5 beginning the long overdue humiliation of Judge Kim.

6  
7 Further declarant sayeth naught.

8 This declaration is based upon my personal knowledge and I am  
9 competent to testify as to the truth of the statements contained herein.

10  
11 Dated: January 27, 2022 signed:  
12 San Jose, CA

  
13 Michael Miroyan  
14 Manager/Member  
15 Hawaiian Riverbend, LLC  
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28

1 Michael Miroyan  
P.O. Box 3181  
2 Saratoga, CA 95070  
Tel: (408) 913-3123  
3 E-mail: mac8881@me.com

4 Petitioner in Propria Persona

5 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
6 **OF THE STATE OF HAWAII**  
7

8 GANG CHEN,

9 Plaintiff,

10 v.

11 HAWAIIAN RIVERBEND, LLC,

12 Defendant.

) CIV. NO. 3CC-16-1-00043K

) [PROPOSED] ORDER

13  
14 Upon review of the moving papers of Attorney Margaret Wille, and the  
15 opposing papers submitted by Michael Miroyan individually and as  
16 managing member of HR, LLC the Court hereby Orders:

- 17 1. Margaret Wille's Motion to Withdraw as counsel is  
18 DENIED.  
19  
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1 Michael Miroyan  
P.O. Box 3181  
2 Saratoga, CA 95070  
Tel: (408) 913-3123  
3 E-mail: mac8881@me.com

4 In Propria Persona

5  
6 **IN THE CIRCUIT COURT OF THE THIRD CIRCUIT**  
7 **OF THE STATE OF HAWAII**

8 GANG CHEN,

9 Plaintiff,

10 v.

11 HAWAIIAN RIVERBEND, LLC,

12 Defendant.

13 **CIV. NO. 3CC-16-1-00043K**

14 **MOTION TO DISQUALIFY AND**  
15 **RECUSE JUDGE ROBERT D.S. KIM;**  
16 **MEMORANDUM OF POINTS AND**  
17 **AUTHORITIES IN SUPPORT;**  
18 **AFFIDAVIT OF BIAS OF MICHAEL**  
19 **MIROYAN; CERTIFICATE OF GOOD**  
20 **FAITH BY COUNSEL; [PROPOSED]**  
21 **ORDER**

22 This Motion to disqualify and recuse Judge Robert D.S. Kim is brought  
23 pursuant to Rule 7 of the Hawaii Rules of Civil Procedure and pursuant to  
24 Hawaii Revised Statutes (HRS) § 601-7 as well as Rule 2.11 of the Hawaii  
25 Canons of Judicial Conduct (CJC). This Motion is supported by this  
26 Memorandum of Points and Authorities in Support of the Motion, the  
27 supporting Affidavit of Judicial Bias of Michael Miroyan with supporting  
28 Exhibits as well as a [Proposed] Order for the Court. Defendant Miroyan  
was unable to obtain a Certificate of Good Faith from existing counsel  
Margaret Wille who has calendared a hearing on her Motion to Withdraw as  
Counsel, a Motion that Defendants are vigorously opposing, set for hearing  
today at 1:30 pm. Miroyan requests that he be allowed to file the Certificate  
of Good faith by Margaret Wille as soon as he is able to do so.

Defendant Miroyan respectfully requests that this Motion be heard by  
another Judge of this Court other than Judge Robert D.S. Kim

//



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---

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**Michael Miroyan** <michaelmiroyan99@gmail.com>

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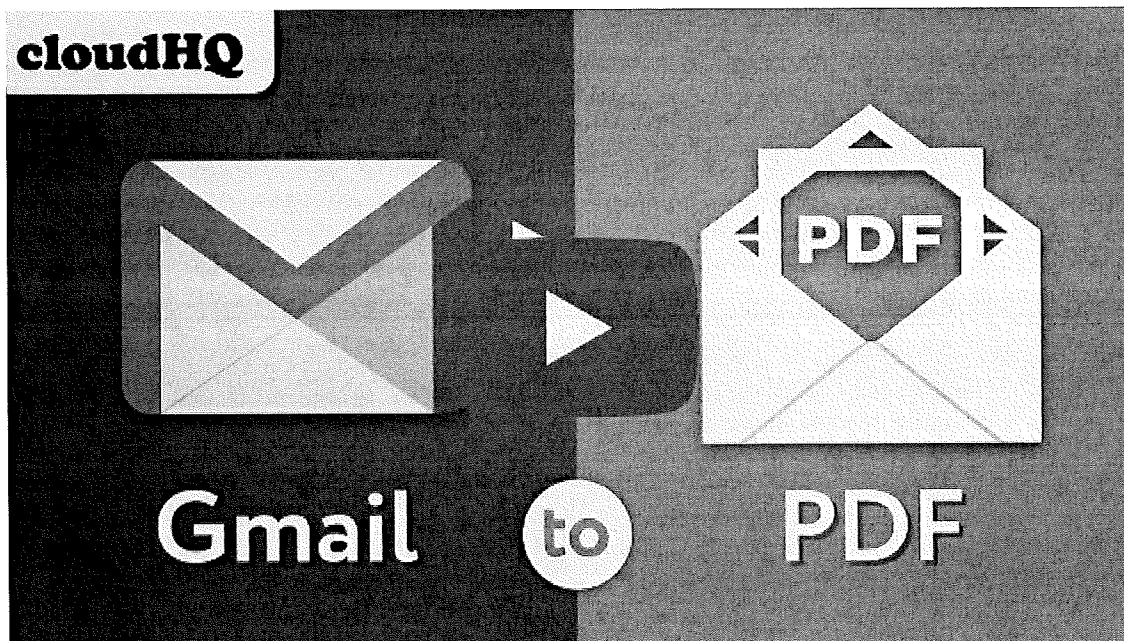
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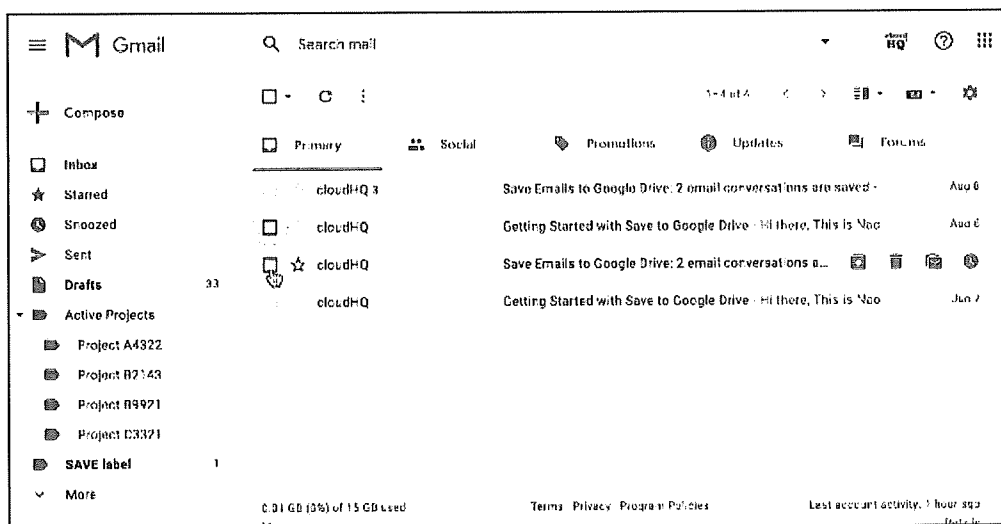


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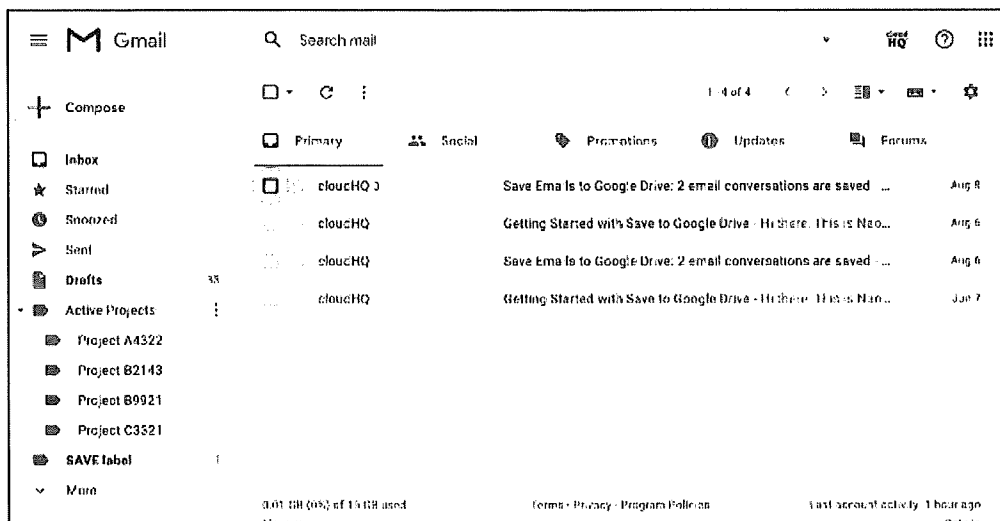
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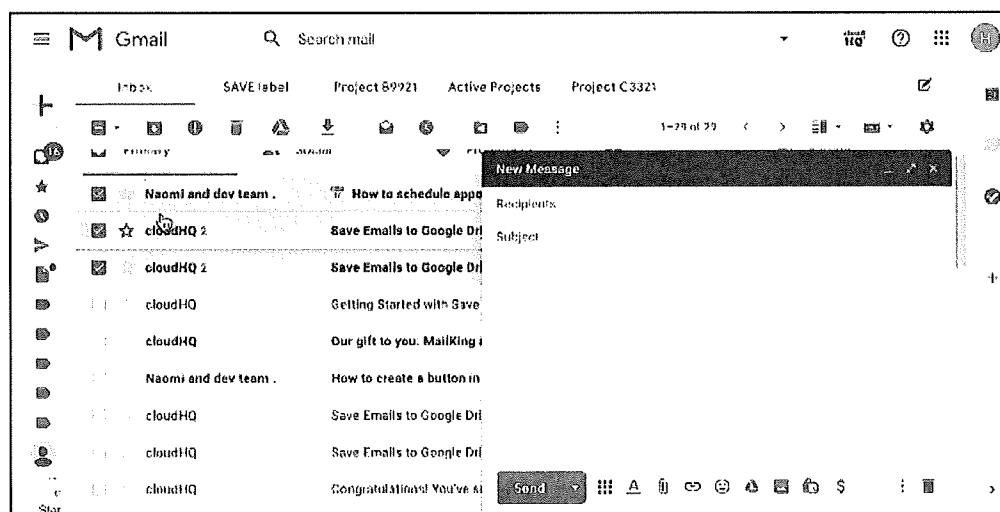
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Naomi



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